



California Regulatory Notice Register

REGISTER 2008, NO. 28-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

JULY 11, 2008

PROPOSED ACTION ON REGULATIONS

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

Conflict of Interest Code — Notice File No. Z2008-0630-04 1181

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

Conflict of Interest Code — Notice File No. Z2008-0701-01 1182

MULTI-COUNTY: Central Sierra Child Support Agency

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

Conflict of Interest Code — Notice File No. Z2008-0626-02 1183

MULTI-COUNTY: Southern California Regional Rail Authority

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

Legal Defense Funds — Local Candidates & Officers — Notice File No. Z2008-0627-01 1183

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

Reporting and Valuation of Gifts — Notice File No. Z2008-0627-02 1185

TITLE 2. VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD

Transportation by Automobile — Notice File No. Z2008-0625-05 1186

TITLE 10. DEPARTMENT OF INSURANCE

Amend CAARP Plan of Operations Section 19 — Notice File No. Z2008-0625-02 1188

TITLE 10. DEPARTMENT OF INSURANCE

Amend CAARP Rules and Rates Manual Rule 94 — Notice File No. Z2008-0625-04 1191

TITLE 10. DEPARTMENT OF INSURANCE

California Automobile Assigned Risk Plan (CAARP) Rules 37, 44, and 54
— Notice File No. 2008-0625-01 1194

TITLE 10. DEPARTMENT OF INSURANCE

California Automobile Assigned Risk Plan (CAARP) Rules 57, 121 and 141
— Notice File No. 2008-0625-03 1197

(Continued on next page)

*Time-
Dated
Material*

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION	
<i>Northern Spotted Owl Definitions, 2008 — Notice File No. Z2008–0630–01</i>	1200
TITLE 14. FISH AND GAME COMMISSION	
<i>Commercial Herring Fishery — Notice File No. Z2008–0701–04</i>	1202
TITLE 17. DEPARTMENT OF PUBLIC HEALTH	
<i>Transportation of Radioactive Material — Notice File No. Z2008–0604–01</i>	1204
TITLE 22. DEPARTMENT OF PUBLIC HEALTH	
<i>Scope of Practice in Licensed Health Facilities — Notice File No. Z2008–0630–02</i>	1208
TITLE 22. EMPLOYMENT DEVELOPMENT DEPARTMENT	
<i>Verification Criteria — Notice File No. Z2008–0626–01</i>	1211
GENERAL PUBLIC INTEREST	
FISH AND GAME COMMISSION	
<i>American Pika Notice Findings</i>	1213
PROPOSITION 65	
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT	
<i>Notice of Intent to List Oryzalin</i>	1217
SUMMARY OF REGULATORY ACTIONS	
Regulations filed with the Secretary of State	1217
Sections Filed, January 30, 2008 to July 2, 2008	1221

The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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**PROPOSED ACTION ON
REGULATIONS**

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**TITLE 2. FAIR POLITICAL
PRACTICES COMMISSION**

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303 and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest code of the following:

**SAN JOAQUIN VALLEY DRAINAGE
AUTHORITY
YUCAIPA VALLEY WATER DISTRICT**

A written comment period has been established commencing on **July 11, 2008** and closing on **August 25, 2008**. Written comments should be directed to the Fair Political Practices Commission, Attention Tara Stock, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code will be submitted to the Commission's Executive Director for his review; unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict of interest code, proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code. Any written comments

must be received no later than **August 25, 2008**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

**EFFECT ON HOUSING COSTS
AND BUSINESSES**

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to Tara Stock, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

**AVAILABILITY OF PROPOSED CONFLICT
OF INTEREST CODES**

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Tara Stock, Fair Political Practices

Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

CONFLICT-OF-INTEREST CODES

AMENDMENT

MULTI-COUNTY: Central Sierra Child Support Agency

A written comment period has been established commencing on **July 11, 2008** and closing on **August 25, 2008**. Written comments should be directed to the Fair Political Practices Commission, Attention **Ashley Clarke**, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

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The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than **August 25, 2008**.

If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

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There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

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Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

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Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

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CONFLICT-OF-INTEREST CODES

AMENDMENT

MULTI-COUNTY: Southern California Regional Rail Authority

A written comment period has been established commencing on **July 11, 2008** and closing on **August 25, 2008**. Written comments should be directed to the Fair Political Practices Commission, Attention **Ashley Clarke**, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than **August 25, 2008**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

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There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

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Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to **Ashley Clarke**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, under the authority vested in it

by Section 83112 of the Government Code proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Fair Political Practices Commission will consider the proposed regulation at a public hearing on or after August 14, 2008, at the offices of the Fair Political Practices Commission, 428 J Street, Sacramento, California, commencing at approximately 10:00 a.m. Written comments must be received at the Commission offices no later than 5:00 p.m. on August 12, 2008.

BACKGROUND/OVERVIEW

The proposed Regulation 18530.45 under the Political Reform Act (Government Code sections 81000–91014) relate to legal defense accounts and committees for local candidates and officers.

The proposed Regulation 18530.45 interprets new Government Code Section 85304.5, allowing candidates or elected officers in a local government agency to establish legal defense accounts. The legal defense accounts would allow candidates or elected officers in a local government agency to raise funds for attorney's fees and other legal costs arising from specified civil, criminal, or administrative proceedings pursuant to Section 85304.5.

The proposed regulation is similar in many respects to rules governing legal defense fund accounts and legal defense committees of state candidates and officers that the FPPC adopted in November 2007. However, under the proposed regulation, local government agencies would have some flexibility in crafting ordinances to suit their particular community's needs as long as certain basic requirements of the proposed regulation are incorporated in their local rules. For instance, the proposed regulation would allow local jurisdictions to impose different requirements, including any contribution limits, as long as the FPPC's minimum standards are met in the areas of reporting, recordkeeping, and establishment of the local legal defense account and legal defense committee. These requirements are specified in subdivision (c), (e), and (f) of the proposed regulation.

REGULATORY ACTION

The Commission will consider adopting 2 Cal. Code of Regs. Section 18530.45 by including the following provisions:

1. Local Regulation of Legal Defense Account. Subdivision (b) provides that FPPC rules generally govern the legal defense account and legal defense committee established by a candidate or officer under Section 85304.5. However, paragraph (b)(2) provides that a local government agency may impose different require-

ments—including any contribution limits—on legal defense accounts and legal defense committees as long as the requirements are at least as strict as those provided in subdivisions (c), (e), and (f) of this regulation. These subdivisions deal with the establishment of legal defense accounts and legal defense committees, recordkeeping and audit requirements, and reporting requirements. For instance, a local government agency may require quarterly filings of statements and reports, or separate LDF accounts for each legal proceeding, because these rules would be stricter than those under the proposed regulation. It also provides that requirements must be at least as strict as those provided in subdivision (i) (relating to limitations on the use of legal defense funds) unless the local government agency imposes contribution limits on the funds. For instance, a local government agency that imposes contribution limits on legal defense funds, may have different rules allowing payment of fundraising and other costs related to legal defense.

2. Establishing the Legal Defense Account and Controlled Committee. Subdivision (c) requires local candidates and officers who raise legal defense funds to deposit the funds in a bank account separate from their campaign account and separate from a state legal defense account established under Section 85304. It also requires the establishment of a controlled committee whose statement of organization must contain a description of the specific legal dispute or disputes for which the account is established. The statement of organization must be amended as legal disputes are either resolved or initiated. In addition, the committee name must include the candidate's or elected state officer's last name.

3. Separate Accounts for Each Local Elective Office. Subdivision (d) requires a local candidate or officer to establish a separate legal defense account and legal defense committee for each local elective office to which the legal proceedings relate. Local jurisdictions may adopt different rules in this area.

4. Required Recordkeeping and Audits. Subdivision (e) provides that a candidate, treasurer, and officer are subject to recordkeeping requirements under Section 84104, and are required to keep separate detailed records, bills, and receipts, for each legal proceeding. It also requires any mandatory audit of a candidate or officer under the Act include the candidate's or officer's legal defense committee if maintained during the same audit period.

5. Reporting Requirements. Subdivision (f) requires that the legal defense committee file campaign statements and reports pursuant to the Political Reform Act at the same times and in the same places as it would be required to do for any other controlled committee formed by the candidate or officer. Because these are

minimum requirements, a local jurisdiction may require a local candidate or officer to file more frequent statements or reports.

6. Limitations. Subdivision (i) requires that legal defense funds be raised in an amount reasonably calculated to pay for attorney's fees and other related legal costs. The funds may not be used to pay for fundraising, fines, penalties, judgments, or settlements. However, if a local government agency imposes contribution limits on legal defense funds, it may impose different rules specifying other permissible uses for the funds that are related to a legal defense of a candidate or officer in its jurisdiction.

7. Disposition of Remaining Funds. Subdivision (j) provides that if the candidate or officer raises more than \$5,000 above his or her actual legal costs, the remaining funds must be returned on a pro rata basis to contributors. Otherwise, the remaining funds may be distributed as allowed under Section 89519(b)(1) through (b)(5).

8. Termination and Reopening of Committees. Subdivision (k) requires termination of a legal defense account within 90 days of the date all legal disputes for which the account is established are resolved. The local ethics agency or, if no such agency exists, the FPPC Executive Director, may for good cause extend the termination date or reopen the account.

SCOPE

The Commission may adopt the language noticed in these proposed regulations, or it may choose new language to implement its decisions concerning the issues identified above or related issues.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. These regulations will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. These regulations will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. These regulations will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY

Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE

The purpose of these regulations is to implement, interpret and make specific Government Code Section 85304.5.

CONTACT

Any inquiries may be made to Emelyn Rodriguez, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at www.fppc.ca.gov.

ADDITIONAL COMMENTS

After the hearing, the Commission may adopt or repeal the proposed regulations if they remain substantially the same as described or as in the text originally made available to the public. The Commission may make changes to the proposed regulations before their adoption or repeal.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, under the authority vested in it by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Fair Political Practices Commission will consider the proposed regulations at a public hearing on or after **August 14, 2008**, at the offices of the Fair Political Practices Commission, 428 J Street, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m. on August 13, 2008**.

BACKGROUND/OVERVIEW

Government Code Section 82028 defines a gift as any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater benefit is not received. Regulation 18946.4 provides that a gift of admission to 501(c)(3) fundraising events or to a political fundraiser has no value.

Proposed regulation 18946.4 would eliminate the no value rule for attendance at 501(c)(3) fundraising events and adopt the same valuation rule for all non-profit fundraisers. The rule would value the benefit received at the face value of the admission less the deductible amount allowable under federal or state law. With respect to political fundraisers, the proposed regulation would extend the current no value rule to federal campaigns for fundraisers held in California. Finally, the proposed changes state that the valuation exception for charitable and political fundraisers applies only if the admission is received directly from the organization or the campaign committee.

REGULATORY ACTION

Amend 2 Cal. Code Regs. § 18946.4: The Commission may consider the following proposed changes to

Regulation 18946.4: (1) whether the “no value” rule for tickets to a 501(c)(3) organization fundraiser should be modified or eliminated; (2) clarifying the valuation method for tickets to nonprofit fundraising events to provide that the value is the amount of the ticket price less the allowable charitable deduction under federal or state law, whether the ticket indicates the amount or not; (3) providing that the exception provided under Regulation 18946.4 for determining the value of a gift to a nonprofit or political fundraiser only applies if the ticket is provided from the organization or political committee; and (4) extending the current exception for political fundraisers to federal campaign committees if the event is held in California, but limiting the entire exception to only when the ticket or admission is provided to the official by the committee or candidate who controls the committee.

The proposed regulatory language, which may be examined by the Commission, is limited to valuation of gifts to attend charitable and political fundraisers and does not apply to other gift provisions of the Act or its regulations.

SCOPE

The Commission may delete provisions, adopt the language noticed herein, or choose new language to implement its policy regarding tickets to fundraising events for nonprofit and political organizations under Regulation 18946.4.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY

Government Code section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE

The purpose of this regulation is to implement, interpret, and make specific the procedures for valuing gifts to nonprofit and political fundraisers.

CONTACT

Any inquiries should be made to William J. Lenkeit, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at www.fppc.ca.gov.

TITLE 2. VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD

[Notice published July 11, 2008]

NOTICE OF PROPOSED RULEMAKING

The Victim Compensation and Government Claims Board (Board) proposes to amend the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Comments may also be submitted by facsimile (FAX) at 916-491-6441 or by e-mail to kevin.kwong@vcgcb.ca.gov. The written comment period closes at **5:00 p.m. on August 25, 2008**. The Board will consider only comments received at the Board offices by that time. Submit comments to

Kevin Kwong
Legal Division
Victim Compensation and Government Claims
Board
400 R Street, Suite 500
Sacramento, CA 95811

AUTHORITY AND REFERENCE

Government Code section 13920 authorizes the Board to make these proposed amendments. The pro-

posed regulations implement, interpret, and make specific Government Code sections 1130 and 11340.9.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Government Code section 13920 provides that the California Victim Compensation and Government Claims Board (Board) may adopt regulations limiting the amount of reimbursement that may be provided to elected state officers and employees of the state provided for in Article VI of the California Constitution, i.e., the judiciary of the State of California. California Code of Regulations, title 2, section 714 sets the rates authorized by Government Code section 13920.

This rulemaking action clarifies and makes specific mileage travel reimbursement rates. California Code of Regulations, title 2, section 714, sets the mileage reimbursement rate for elected state officers and members of the judiciary when using a personal vehicle on state business. Currently, the mileage reimbursement rate is 50.5 cents per mile.

The proposed amended regulation would set the mileage reimbursement rate to be in accordance with the Department of Personnel Administration's (DPA) mileage reimbursement rate for non-represented employees. Since the Board consistently amends this regulation to match the DPA mileage reimbursement rates, this proposed amendment will update mileage reimbursement rates for elected officers and members of the judiciary without the Board having to vote, approve, and/or draft a change to the existing regulation.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or businesses: The agency is not aware of any cost impacts that a representative private person or business would

necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

Small Business Determination

The Board has determined that the proposed amended regulation does not affect small business because the regulation only applies when elected officials or members of the judiciary seek mileage reimbursement for traveling in their private vehicles while on state business.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Kevin Kwong
Legal Division
Victim Compensation and Government Claims
Board
400 R Street, Suite 500
Sacramento, CA 95811
916-491-3605

The backup contact person for these inquiries is:

Jennifer Chmura
Legal Division
Victim Compensation and Government Claims
Board
400 R Street, Suite 500
Sacramento, CA 95811
916-491-3605

**AVAILABILITY OF STATEMENT OF REASONS,
TEXT OF PROPOSED REGULATIONS,
AND RULEMAKING FILE**

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. Copies may be obtained by contacting Benedicte Lewis at the address or phone number listed above.

**AVAILABILITY OF CHANGED
OR MODIFIED TEXT**

After considering all timely and relevant comments received, and holding a hearing if necessary, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Benedicte Lewis at the address indicated above. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**AVAILABILITY OF THE FINAL
STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Benedicte Lewis at the above address.

**AVAILABILITY OF THE DOCUMENTS
ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of reasons, and the text of the regulations in underline and strikeout can be accessed through our website at www.vcgcb.ca.gov

**TITLE 10. DEPARTMENT OF
INSURANCE**

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 21st Floor
San Francisco, California 94105**

REG-2007-00036

June 20, 2008

**NOTICE OF PROPOSED ACTION AND
NOTICE OF PUBLIC HEARING REGARDING
REVISIONS TO CALIFORNIA AUTOMOBILE
ASSIGNED RISK PLAN**

SUBJECT OF HEARING

California Insurance Commissioner Steve Poizner will hold a public hearing to address the proposed amendments to Section 19 of the California Automobile Assigned Risk Plan (CAARP) Plan of Operations.

**AUTHORITY TO ADOPT RULES AND
PROCEDURES AND REFERENCE**

The Commissioner will consider the proposed changes pursuant to the authority vested in him by Section 11620 of the California Insurance Code. The Commissioner's decision on the proposed changes will implement, interpret, or make specific the requirements of Insurance Code Section 11624(e). Government Code §11340.9(g) applies to this proceeding.

HEARING DATE AND LOCATION

Notice is hereby given that a public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed changes at the following date, time, and place:

**Date and Time: September 10, 2008
10:00 a.m.**

**Location: California Department of
Insurance
45 Fremont Street
22nd Floor Hearing Room
San Francisco, California 94105**

ACCESS TO HEARING ROOM

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons

with sight or hearing impairments are requested to notify the contact person (listed below) for this hearing in order to make special arrangements, if necessary.

WRITTEN AND/OR ORAL COMMENTS:
AGENCY CONTACT PERSON

All persons are invited to submit written comments to the Insurance Commissioner on the proposal prior to the public comment deadline. Comments should be addressed to the contact person for this proceeding:

Mike Riordan, Staff Counsel
California Department of Insurance
Rate Enforcement Bureau
45 Fremont Street, 21st Floor
San Francisco, CA 94105
riordanm@insurance.ca.gov
Telephone: (415) 538-4226
Facsimile: (415) 904-5490

The backup agency contact person for this proceeding will be:

Sara Urakawa, Staff Counsel
California Department of Insurance
Rate Enforcement Bureau
45 Fremont Street, 21st Floor
San Francisco, CA 94105
urakawas@insurance.ca.gov
Telephone: (415) 538-4121
Facsimile: (415) 904-5490

All persons are invited to present oral and/or written testimony at the scheduled public hearing.

DEADLINE FOR WRITTEN COMMENTS

All written materials, unless submitted at the hearing, must be **received** by the Insurance Commissioner at the address listed above **no later than 5:00 p.m. on September 10, 2008**. Any written materials received after that time will not be considered. Written comments may also be submitted to the contact person by e-mail and facsimile transmission. Please select only one method to submit written comments.

ADVOCACY OR WITNESS FEES

Persons or groups representing the interest of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of California Code of Regulations, Title 10, Sections 2662.1–2662.6 in connection with their participation in this matter. Interested persons must submit a Petition to Participate, as specified in

California Code of Regulations, Title 10, Section 2661.4. The Petition to Participate must be submitted to the Commissioner at the Office of the Public Advisor at the following address:

California Department of Insurance
Office of the Public Advisor
300 Capitol Mall, Suite 1700
Sacramento, CA 95814
Telephone: (916) 492-3500

A copy of the Petition to Participate must also be submitted to the contact person for this hearing (listed above). For further information, please contact the Office of the Public Advisor.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

When the producer certification program was implemented in 1995 any producer licensed prior to that date was not required to attend a producer seminar. Since that time there have been many changes to the CAARP Plan of Operations in addition to the introduction of the Low Cost Auto program. Thus many of the current certified producers have never taken a producer certification course and may not be familiar with all of the changes. To maintain their certification status certified producers will be required to attend a producer seminar once every four years. The seminars will provide producers with opportunities to update their knowledge of Plan rules and for those certified prior to 2000 the opportunity to learn about the LCA program. In order to make it less of a burden CAARP will be offering the program on line as well as the regularly scheduled course.

Current rules require that a producer attend a class 120 days after certification by the Plan. After that the only time they are required to attend future certification classes is if their certification is conditioned, suspended or revoked. The proposed regulation would ensure that the producers would provide the most up to date service while reducing errors on applications that delay and sometimes deny coverage to unsuspecting drivers.

COMPARABLE FEDERAL LAW

There are no comparable existing federal regulations or statutes.

LOCAL MANDATE DETERMINATION

The Insurance Commissioner has initially determined that the proposal will not result in any new program mandates on local agencies or school districts.

MANDATES ON LOCAL AGENCIES
OR SCHOOL DISTRICTS OR COSTS
WHICH MUST BE REIMBURSED PURSUANT
TO GOVERNMENT CODE SECTIONS
17500 THROUGH 17630

The Insurance Commissioner has initially determined that the proposal will not result in any cost or significant savings to any local agency or school district for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement, or in other nondiscretionary costs or savings to local agencies.

COST OR SAVINGS TO ANY STATE AGENCY;
FEDERAL FUNDING

The Commissioner has determined that the proposed regulation will result in no cost or savings to any state agency and no cost or savings in federal funding to the state.

SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES
AND THE ABILITY OF CALIFORNIA
BUSINESSES TO COMPETE

The Commissioner has initially determined that the proposal will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This proposal will have no effect on the creation or elimination of jobs in California, the creation of new businesses, the elimination of existing businesses in California, or the expansion of businesses in California.

COST IMPACT ON PRIVATE
PERSONS OR ENTITIES

The cost to re-certify every four years will be \$60. However the producer will receive required Continuing Education credit.

IMPACT ON HOUSING COSTS

The Insurance Commissioner has initially determined that the proposal will not affect housing costs.

IMPACT ON SMALL BUSINESS

The matter proposed herein will affect small business by requiring producer to take the proposed required re-

certification classes. However the recertification classes can be used to satisfy the Continuing Education requirement.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposal would not mandate the use of specific technologies or equipment.

ALTERNATIVES

The Insurance Commissioner must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

PLAIN ENGLISH

The proposed changes describing CAARP's proposals are in plain English.

TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared an Initial Statement of Reasons addressing the proposed amendments in addition to the Informative Digest included in this notice. The Initial Statement of Reasons and this Notice of Proposed Action are available for inspection or copying, and will be provided at no charge upon request to the contact person listed above. Further details on CAARP's proposal are on file with the Commissioner and available for review as set forth below.

FINAL STATEMENT OF REASONS

A final statement of reasons will be prepared at the conclusion of this proceeding. Upon written or e-mail request to the contact person listed above, the final statement of reasons will be made available for inspection and copying once it has been prepared. A copy of the final statement of reasons will also be posted on the Department's web site.

ACCESS TO RULEMAKING FILE

Any interested person may inspect a copy of or direct questions about CAARP's proposed amendments, the statement of reasons, and any supplemental information contained in the rulemaking file by contacting the contact person listed above. **By prior appointment**, the rulemaking file is available for inspection at 45 Fre-

mont Street, 21st Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m. Monday through Friday.

AUTOMATIC MAILING

A copy of this Notice, including the Informative Digest is being sent to all persons on the Insurance Commissioner's mailing list.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Initial Statement of Reasons, proposed text, and this Notice of Proposed Action will be published online and may be accessed through the Department's website at www.insurance.ca.gov.

AVAILABILITY OF MODIFIED TEXT OF REGULATIONS

If the Department amends the proposed regulations with changes that are sufficiently related to the original text, the Department will make the full text of the amended regulations, with the changes clearly indicated, available to the public for at least 15 days before the date the Department adopts the amended regulations.

TITLE 10. DEPARTMENT OF INSURANCE

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 21st Floor
San Francisco, California 94105**

REG-2007-00032

June 20, 2008

NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING REGARDING REVISIONS TO CALIFORNIA AUTOMOBILE ASSIGNED RISK PLAN

SUBJECT OF HEARING

California Insurance Commissioner Steve Poizner will hold a public hearing to address the proposed amendments to Rule 94 of the California Automobile Assigned Risk Plan (CAARP) Manual of Rules and Rates.

AUTHORITY TO ADOPT RATES AND PROCEDURES AND REFERENCE

The Commissioner will consider the proposed changes pursuant to the authority vested in him by Section 11620 of the California Insurance Code. The Commissioner's decision on the proposed changes will implement, interpret, or make specific the requirements of Insurance Code Section 11624(e). Government Code §11340.9(g) applies to this proceeding.

HEARING DATE AND LOCATION

Notice is hereby given that a public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed changes at the following date, time, and place:

**Date and Time: September 10, 2008
10:00 a.m.**

**Location: California Department of
Insurance
45 Fremont Street
22nd Floor Hearing Room
San Francisco, California 94105**

ACCESS TO HEARING ROOM

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person (listed below) for this hearing in order to make special arrangements, if necessary.

WRITTEN AND/OR ORAL COMMENTS: AGENCY CONTACT PERSON

All persons are invited to submit written comments to the Insurance Commissioner on the proposal prior to the public comment deadline. Comments should be addressed to the contact person for this proceeding:

Mike Riordan, Staff Counsel
California Department of Insurance
Rate Enforcement Bureau
45 Fremont Street, 21st Floor
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The backup agency contact person for this proceeding will be:

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Telephone: (415) 538-4121
Facsimile: (415) 904-5490

All persons are invited to present oral and/or written testimony at the scheduled public hearing.

DEADLINE FOR WRITTEN COMMENTS

All written materials, unless submitted at the hearing, must be **received** by the Insurance Commissioner at the address listed above **no later than 5:00 p.m. on September 10, 2008**. Any written materials received after that time will not be considered. Written comments may also be submitted to the contact person by e-mail and facsimile transmission. Please select only one method to submit written comments.

ADVOCACY OR WITNESS FEES

Persons or groups representing the interest of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of California Code of Regulations, Title 10, Sections 2662.1-2662.6 in connection with their participation in this matter. Interested persons must submit a Petition to Participate, as specified in California Code of Regulations, Title 10, Section 2661.4. The Petition to Participate must be submitted to the Commissioner at the Office of the Public Advisor at the following address:

California Department of Insurance
Office of the Public Advisor
300 Capitol Mall, Suite 1700
Sacramento, CA 95814
Telephone: (916) 492-3500

A copy of the Petition to Participate must also be submitted to the contact person for this hearing (listed above). For further information, please contact the Office of the Public Advisor.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The current CAARP rating manual lists no rating factors for limousines that have a capacity of in excess of eight. This was due in part to in the past that this service was not readily offered for longer distances. However

due to these vehicles now being rented for longer distances, plan activity and requests for rating factors from insurers have increased. Therefore CAARP is proposing rating factors that would be available for Limousine- Seating Capacity in Excess of Eight for both intermediate and long distance.

In addition due to the change to the Rating Manual, Bingo Busses are restricted to a 50 mile radius and no longer offer the intermediate and long range distances. Due to an oversight when the change was made these distances remained in the Rating Manual. The proposed amendment will eliminate rating factors for intermediate and long distance in order to eliminate any confusion by producers.

COMPARABLE FEDERAL LAW

There are no comparable existing federal regulations or statutes.

LOCAL MANDATE DETERMINATION

The Insurance Commissioner has initially determined that the proposal will not result in any new program mandates on local agencies or school districts.

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS OR COSTS WHICH MUST BE REIMBURSED PURSUANT TO GOVERNMENT CODE SECTIONS 17500 THROUGH 17630

The Insurance Commissioner has initially determined that the proposal will not result in any cost or significant savings to any local agency or school district for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement, or in other nondiscretionary costs or savings to local agencies.

COST OR SAVINGS TO ANY STATE AGENCY; FEDERAL FUNDING

The Commissioner has determined that the proposed regulation will result in no cost or savings to any state agency and no cost or savings in federal funding to the state.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

The Commissioner has initially determined that the proposal will not have a significant statewide adverse

economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This proposal will have no effect on the creation or elimination of jobs in California, the creation of new businesses, the elimination of existing businesses in California, or the expansion of businesses in California.

COST IMPACT ON PRIVATE PERSONS OR ENTITIES

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

IMPACT ON HOUSING COSTS

The Insurance Commissioner has initially determined that the proposal will not affect housing costs.

IMPACT ON SMALL BUSINESS

The matter proposed herein will affect insurance companies and therefore will not affect small business. (Gov. Code Section 11342.610(b)(2)).

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposal would not mandate the use of specific technologies or equipment.

ALTERNATIVES

The Insurance Commissioner must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

PLAIN ENGLISH

The proposed changes describing CAARP's proposals are in plain English.

TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared an Initial Statement of Reasons addressing the proposed amendment in addition to the Informative Digest included in this notice.

The Initial Statement of Reasons and this Notice of Proposed Action are available for inspection or copying, and will be provided at no charge upon request to the contact person listed above. Further details on CAARP's proposal are on file with the Commissioner and available for review as set forth below.

FINAL STATEMENT OF REASONS

A final statement of reasons will be prepared at the conclusion of this proceeding. Upon written or e-mail request to the contact person listed above, the final statement of reasons will be made available for inspection and copying once it has been prepared. A copy of the final statement of reasons will also be posted on the Department's web site.

ACCESS TO RULEMAKING FILE

Any interested person may inspect a copy of or direct questions about CAARP's proposed amendments, the statement of reasons, and any supplemental information contained in the rulemaking file by contacting the contact person listed above. **By prior appointment**, the rulemaking file is available for inspection at 45 Fremont Street, 21st Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m. Monday through Friday.

AUTOMATIC MAILING

A copy of this Notice, including the Informative Digest is being sent to all persons on the Insurance Commissioner's mailing list.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Initial Statement of Reasons, proposed text, and this Notice of Proposed Action will be published online and may be accessed through the Department's website at www.insurance.ca.gov.

AVAILABILITY OF MODIFIED TEXT OF REGULATIONS

If the Department amends the proposed regulations with changes that are sufficiently related to the original text, the Department will make the full text of the amended regulations, with the changes clearly indicated, available to the public for at least 15 days before the date the Department adopts the amended regulations.

**TITLE 10. DEPARTMENT OF
INSURANCE**

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 21st Floor
San Francisco, California 94105**

REG-2007-00035

June 20, 2008

**NOTICE OF PROPOSED ACTION AND
NOTICE OF PUBLIC HEARING REGARDING
REVISIONS TO CALIFORNIA AUTOMOBILE
ASSIGNED RISK PLAN**

SUBJECT OF HEARING

California Insurance Commissioner Steve Poizner will hold a public hearing to address the proposed amendments to Sections 37, 44 and 54 of the California Automobile Assigned Risk Plan (CAARP) Plan of Operations.

**AUTHORITY TO ADOPT RULES AND
PROCEDURES AND REFERENCE**

The Commissioner will consider the proposed addition pursuant to the authority vested in him by California Insurance Code Sections 11620 and 11624. Government Code Sections 11340.9(g) and 11343(a) apply to these proceeds.

HEARING DATE AND LOCATION

Notice is hereby given that a public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed changes at the following date, time, and place:

Date and Time: **September 10, 2008
10:00 a.m.**

Location: **California Department of
Insurance
45 Fremont Street
22nd Floor Hearing Room
San Francisco, California 94105**

ACCESS TO HEARING ROOM

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons

with sight or hearing impairments are requested to notify the contact person (listed below) for this hearing in order to make special arrangements, if necessary.

**WRITTEN AND/OR ORAL COMMENTS:
AGENCY CONTACT PERSON**

All persons are invited to submit written comments to the Insurance Commissioner on the proposal prior to the public comment deadline. Comments should be addressed to the contact person for this proceeding:

Mike Riordan, Staff Counsel
California Department of Insurance
Rate Enforcement Bureau
45 Fremont Street, 21st Floor
San Francisco, CA 94105
riordanm@insurance.ca.gov
Telephone: (415) 538-4226
Facsimile: (415) 904-5490

The backup agency contact person for this proceeding will be:

Sara Urakawa, Staff Counsel
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urakawas@insurance.ca.gov
Telephone: (415) 538-4121
Facsimile: (415) 904-5490

All persons are invited to present oral and/or written testimony at the scheduled public hearing.

DEADLINE FOR WRITTEN COMMENTS

All written materials, unless submitted at the hearing, must be **received** by the Insurance Commissioner at the address listed above **no later than 5:00 p.m. on September 10, 2008**. Any written materials received after that time will not be considered. Written comments may also be submitted to the contact person by e-mail and facsimile transmission. Please select only one method to submit written comments.

ADVOCACY OR WITNESS FEES

Persons or groups representing the interest of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of California Code of Regulations, Title 10, Sections 2662.1-2662.6 in connection with their participation in this matter. Interested persons must submit a Petition to Participate, as specified in California Code of Regulations, Title 10, Section

2661.4. The Petition to Participate must be submitted to the Commissioner at the Office of the Public Advisor at the following address:

California Department of Insurance
Office of the Public Advisor
300 Capitol Mall, Suite 1700
Sacramento, CA 95814
Telephone: (916) 492-3500

A copy of the Petition to Participate must also be submitted to the contact person for this hearing (listed above). For further information, please contact the Office of the Public Advisor.

INFORMATIVE DIGEST

SECTION 44

Under current Plan rules, the producer must either rate the policy and submit a deposit of 25% of the estimated annual premium or calculate the deposit based on the minimum deposit per vehicle or power unit, whichever is greater. Producers often do not rate the policy and base the deposit amount on the minimum premium deposit per vehicle or power unit. The current CAARP premium deposit amounts for CAIP risks have been in effect for more than 20 years. Therefore, deposit premiums based on a per vehicle or power unit are frequently inadequate, resulting in a premium deficiency.

When processing the policy, the servicing carrier must immediately bill for any deposit deficiency and issue filings on a timely basis. Depending on the size of the deposit shortfall, a cancellation notice may be issued. In cases where commercial filings involve an SR-22, the cancellation date may be extended by the servicing carrier to permit proper cancellation of commercial filings. This may result in cancellation of the CAIP policy with an earned premium.

CAARP is proposing increasing the minimum premium deposit per vehicle or power unit for all classes of commercial business with the exception of private passenger automobiles. A separate premium deposit requirement is introduced for extra heavy trucks and truck tractors.

SECTIONS 37 AND 54

The Plan Office issues SR-22s for private passenger and commercial risks when the application is assigned. However, the Plan does not issue financial responsibility filings other than SR-22s for commercial risks. FHA, ICC, DOT, PUC, and DMV filings are made by the assigned servicing carrier. If the servicing carrier determines that a financial responsibility filing must be issued after they receive the application and premium, they have five working days to make the filing. The

time frame is applicable provided the application contains the information necessary to process the filing.

CAIP servicing carriers requested clarification of the time frame for issuance of financial responsibility filings such as FHA, ICC, DOT, PUC, and DMV filings. In accordance with Plan rules, servicing carriers must issue all financial responsibility filings including SR-22s within five working days of receipt of the commercial application and deposit. However the servicing carrier performance standard in Commercial Automobile Part, Section 54 does not provide a specific reference to the issuance of FHA, ICC, DOT, PUC, and DMV filings.

Performance standards for servicing carrier issuance of commercial financial responsibility filings such as FHA, ICC, DOT, PUC, and DMV filings, are revised to clarify that the servicing carrier must make the filings within five working days after receipt of the application and the deposit, provided all information necessary is provided in the application.

COMPARABLE FEDERAL LAW

There are no comparable existing federal regulations or statutes.

LOCAL MANDATE DETERMINATION

The Insurance Commissioner has initially determined that the proposal will not result in any new program mandates on local agencies or school districts.

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS OR COSTS WHICH MUST BE REIMBURSED PURSUANT TO GOVERNMENT CODE SECTIONS 17500 THROUGH 17630

The Insurance Commissioner has initially determined that the proposal will not result in any cost or significant savings to any local agency or school district for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement, or in other nondiscretionary costs or savings to local agencies.

COST OR SAVINGS TO ANY STATE AGENCY; FEDERAL FUNDING

The Commissioner has determined that the proposed regulation will result in no cost or savings to any state agency and no cost or savings in federal funding to the state.

SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT ON BUSINESSES
AND THE ABILITY OF CALIFORNIA
BUSINESSES TO COMPETE

The Commissioner has initially determined that the proposal will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This proposal will have no effect on the creation or elimination of jobs in California, the creation of new businesses, the elimination of existing businesses in California, or the expansion of businesses in California.

COST IMPACT ON PRIVATE
PERSONS OR ENTITIES

Truckers who are placed by CAARP for coverage may see an increase in their deposit amount. However this amount would have been made when the servicing carrier billed for the shortfall.

IMPACT ON HOUSING COSTS

The Insurance Commissioner has initially determined that the proposal will not affect housing costs.

IMPACT ON SMALL BUSINESS

The matter proposed herein will affect insurance companies and therefore will not affect small business. (Gov. Code Section 11342.610(b)(2)).

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposal would not mandate the use of specific technologies or equipment.

ALTERNATIVES

The Insurance Commissioner must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

PLAIN ENGLISH

The proposed changes describing CAARP's proposals are in plain English.

TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared an Initial Statement of Reasons addressing the proposed amendments in addition to the Informative Digest included in this notice. The Initial Statement of Reasons and this Notice of Proposed Action are available for inspection or copying, and will be provided at no charge upon request to the contact person listed above. The file for this proceeding, which includes a copy of the express terms of the proposed regulations, the statement of reasons, the information upon which the proposed action is based, and any supplemental information, including any reports, documentation and other materials related to the proposed action that is contained in the rulemaking file, are on file with the Commissioner and available for review as set forth below.

FINAL STATEMENT OF REASONS

A final statement of reasons will be prepared at the conclusion of this proceeding. Upon written or e-mail request to the contact person listed above, the final statement of reasons will be made available for inspection and copying once it has been prepared. A copy of the final statement of reasons will also be posted on the Department's web site.

ACCESS TO RULEMAKING FILE

Any interested person may inspect a copy of or direct questions about CAARP's proposed amendments, the statement of reasons, and any supplemental information contained in the rulemaking file by contacting the contact person listed above. **By prior appointment**, the rulemaking file is available for inspection at 45 Fremont Street, 21st Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m. Monday through Friday.

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AVAILABILITY OF MODIFIED
TEXT OF REGULATIONS

If the Department amends the proposed regulations with changes that are sufficiently related to the original

text, the Department will make the full text of the amended regulations, with the changes clearly indicated, available to the public for at least 15 days before the date the Department adopts the amended regulations.

TITLE 10. DEPARTMENT OF INSURANCE

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 21st Floor
San Francisco, California 94105

REG-2008-00014

June 20, 2008

NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING REGARDING REVISIONS TO CALIFORNIA AUTOMOBILE ASSIGNED RISK PLAN

SUBJECT OF HEARING

California Insurance Commissioner Steve Poizner will hold a public hearing to address the proposed amendment to Rules 57, 121 and 141 of the California Automobile Assigned Risk Plan (CAARP) Manual of Rules and Rates.

AUTHORITY TO ADOPT RATES AND PROCEDURES AND REFERENCE

The Commissioner will consider the proposed changes pursuant to the authority vested in him by Section 11620 of the California Insurance Code. The Commissioner's decision on the proposed changes will implement, interpret, or make specific the requirements of Insurance Code Section 11624(e). Government Code § 11340.9(g) applies to this proceeding.

HEARING DATE AND LOCATION

Notice is hereby given that a public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed changes at the following date, time, and place:

Date and Time: September 10, 2008
10:00 a.m.

Location: California Department of Insurance
45 Fremont Street
22nd Floor Hearing Room
San Francisco, California 94105

ACCESS TO HEARING ROOM

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person (listed below) for this hearing in order to make special arrangements, if necessary.

WRITTEN AND/OR ORAL COMMENTS: AGENCY CONTACT PERSON

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ADVOCACY OR WITNESS FEES

Persons or groups representing the interest of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of California Code of Regula-

tions, Title 10, Sections 2662.1–2662.6 in connection with their participation in this matter. Interested persons must submit a Petition to Participate, as specified in California Code of Regulations, Title 10, Section 2661.4. The Petition to Participate must be submitted to the Commissioner at the Office of the Public Advisor at the following address:

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Office of the Public Advisor
300 Capitol Mall, Suite 1700
Sacramento, CA 95814
Telephone: (916) 492–3500

A copy of the Petition to Participate must also be submitted to the contact person for this hearing (listed above). For further information, please contact the Office of the Public Advisor.

INFORMATIVE DIGEST

The Uninsured Motorist Bodily Injury (UMBI) rates developed for Nonowned Autos and Hired Autos as introduced in paragraph F of Rule 57 requires the use of an alternative actuarial method since no California specific premium and loss information is available. CAARP conducted a survey of all of the other Plans in the country and found that this coverage is only offered in Alaska, Arizona, Louisiana and Ohio. The data compiled from all four states had a total of only four claims during a five policy year period ending 12/31/2005. Using this data as a proxy for California was deemed unreasonable due to its lack of credibility.

As an alternative CAARP researched ISO class plans and loss costs for the same four states to see if it was possible to determine how ISO determined loss cost for this coverage; Arizona was the only state that had published loss costs for UMBI, Nonowned and Hired Autos. After analyzing these loss costs CAARP determined that the UMBI rates for Nonowned Autos and Hired Autos are factors relative to the base UMBI loss costs at similar limits.

The selection ratio was determined to be .0071 for Nonowned and .0017 for Hired Autos.

These amendments will eliminate any ambiguity when applying the increased limits rate, and when commercial uninsured motorist coverage is provided for motorcycles, private passenger nonowned and hired autos.

Specific Proposed Changes:

Rule 57 will be amended as follows;

- Paragraph B is amended to clarify that the rate per auto is the charge for increased limits,
- New paragraph C is introduced to provide rates and the minimum premium for nonowned and hired autos,

- New paragraph D is introduced to provide rating procedures for motorcycles used for commercial purposes,
- New paragraph E is introduced to provide rating procedures for private passenger autos on a commercial policy, and
- Former paragraph C is now paragraph F.

Rule 121 is amended to include the reference to uninsured motorists insurance premiums.

Rule 141 Paragraph D is amended to reference Rule 57 for uninsured motorists limits above the basic limits rate.

COMPARABLE FEDERAL LAW

There are no comparable existing federal regulations or statutes.

LOCAL MANDATE DETERMINATION

The Insurance Commissioner has initially determined that the proposal will not result in any new program mandates on local agencies or school districts.

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS OR COSTS WHICH MUST BE REIMBURSED PURSUANT TO GOVERNMENT CODE SECTIONS 17500 THROUGH 17630

The Insurance Commissioner has initially determined that the proposal will not result in any cost or significant savings to any local agency or school district for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement, or in other nondiscretionary costs or savings to local agencies.

COST OR SAVINGS TO ANY STATE AGENCY; FEDERAL FUNDING

The Commissioner has determined that the proposed regulation will result in no cost or savings to any state agency and no cost or savings in federal funding to the state.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

The Commissioner has initially determined that the proposal will not have a significant statewide adverse economic impact directly affecting businesses, includ-

ing the ability of California businesses to compete with businesses in other states. This proposal will have no effect on the creation or elimination of jobs in California, the creation of new businesses, the elimination of existing businesses in California, or the expansion of businesses in California.

COST IMPACT ON PRIVATE PERSONS OR ENTITIES

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

IMPACT ON HOUSING COSTS

The Insurance Commissioner has initially determined that the proposal will not affect housing costs.

IMPACT ON SMALL BUSINESS

The matter proposed herein will affect insurance companies and therefore will not affect small business. (Gov. Code Section 11342.610(b)(2)).

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposal would not mandate the use of specific technologies or equipment.

ALTERNATIVES

The Insurance Commissioner must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

PLAIN ENGLISH

The proposed changes describing CAARP's proposals are in plain English.

TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared an Initial Statement of Reasons addressing the proposed amendment in addition to the Informative Digest included in this notice. The Initial Statement of Reasons and this Notice of Pro-

posed Action are available for inspection or copying, and will be provided at no charge upon request to the contact person listed above. Further details on CAARP's proposal are on file with the Commissioner and available for review as set forth below.

FINAL STATEMENT OF REASONS

A final statement of reasons will be prepared at the conclusion of this proceeding. Upon written or e-mail request to the contact person listed above, the final statement of reasons will be made available for inspection and copying once it has been prepared. A copy of the final statement of reasons will also be posted on the Department's web site.

ACCESS TO RULEMAKING FILE

Any interested person may inspect a copy of or direct questions about CAARP's proposed amendments, the statement of reasons, and any supplemental information contained in the rulemaking file by contacting the contact person listed above. **By prior appointment**, the rulemaking file is available for inspection at 45 Fremont Street, 21st Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m. Monday through Friday.

AUTOMATIC MAILING

A copy of this Notice, including the Informative Digest is being sent to all persons on the Insurance Commissioner's mailing list.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Initial Statement of Reasons, proposed text, and this Notice of Proposed Action will be published online and may be accessed through the Department's website at www.insurance.ca.gov

AVAILABILITY OF MODIFIED TEXT OF REGULATIONS

If the Department amends the proposed regulations with changes that are sufficiently related to the original text, the Department will make the full text of the amended regulations, with the changes clearly indicated, available to the public for at least 15 days before the date the Department adopts the amended regulations.

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

Title 14 of the California Code of Regulations

[Notice Published July 11, 2008]

NOTICE OF PROPOSED RULEMAKING

Northern Spotted Owl Definitions, 2008

Title 14 of the California Code of Regulations (14 CCR):

The Board of Forestry and Fire Protection (Board) proposes to amend and adopt the regulations of Title 14 of the California Code of Regulations (14 CCR) described below after considering all comments, objections, and recommendations regarding the proposed action.

Amend

14 CCR § 895.1 Definitions

14 CCR § 919.9, 939.9 — Northern Spotted Owl

PUBLIC HEARING

The Board will hold a public hearing starting at 8:00 a.m., on Wednesday, September 10, 2008, at the Resources Building Auditorium, 1st Floor, and 1416 Ninth Street, Sacramento, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the *Informative Digest*. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code section 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 p.m., Monday, August 25, 2008. The Board will consider only written comments received at the Board office by that time (in addition to those written comments received at the public hearing). The Board requests, but does not require, that persons who submit

written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

board.public.comments@fire.ca.gov

AUTHORITY AND REFERENCE

Public Resources Code (PRC) 4551 and 4554.5 authorize the Board to adopt such rules and regulations as it determines are reasonably necessary to enable it to implement, interpret or make specific sections 4512, 4513 and 4561 of the Public Resources Code. Reference: Public Resources Code sections 4513, 4551.5, 4561, 4584 and 21080.5.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Two definitions in the California Forest Practice Rules (FPRs) are proposed for amendments to conform to current U.S. Fish and Wildlife Service (Service) federal regulatory requirements for northern spotted owl (*Strix occidentalis caurina*) and to clarify state and federal Endangered Species Act "Take" definitions. The two definitions proposed for amendment more precisely define the range of the northern spotted owl and incorporate the state of California definition of "Take" in addition to the federally listed species definition. Section 919.9 and 939.9 are revised to insert the proposed amended definition for the range of the northern spotted owl.

SPECIFIC PURPOSE OF THE REGULATION

Amendments for the range of the northern spotted owl: The purpose of this proposed amendment

is to resolve a discrepancy between the FPRs and the Federal Register Notice that describes the range of the northern spotted owl within the California Cascade Province. The proposed changes primarily modifies, and more precisely describes, the boundary of the evaluation area. The amendment more closely reflects the range of the northern spotted owl, as described by the Service in the Federal regulations. The realignment of the eastern and southern regulatory boundaries and clarification to the existing northern spotted owl consultation process will focus detection efforts within areas of confirmed long-term northern spotted owl distribution, and eliminate surveys in unsuitable habitat.

Amendments for state definition of Take: The purpose of the regulation is to provide clarification to, and the appropriate application of, the definition of "Take." In order to avoid confusion or an overbroad application of Take when state-listed species are at issue, they must reflect both federal and state code. The Board has proposed two mutually exclusive alternatives for consideration of adoption for this purpose: Alternative #4 or Alternative #5.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has determined the proposed action will have the following effects:

- Mandate on local agencies and school districts: None are known.
- Costs or savings to any State agency: None are known.
- Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC 17500: None are known.
- Other non-discretionary cost or savings imposed upon local agencies: None are known.
- Cost or savings in federal funding to the State: None are known.
- Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None are known.
- Potential cost impact on private persons or directly affected businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed regulation does not impose any new operational or plan preparation requirements that would result in an adverse cost impact.

- Effect on small business: None. The Board has determined that the proposed amendments will not affect small business because the proposal adds no new operational or plan preparations cost.
- Significant effect on housing costs: None are known.
- Adoption of these regulations will not create or eliminate jobs within California.
- Adoption of these regulations will not: (1) create new businesses or eliminate existing businesses within California; or (2) affect the expansion of businesses currently doing business within California.

The proposed Rules do not conflict with, or duplicate Federal regulations.

BUSINESS REPORTING REQUIREMENT

The regulation does not require a report, which shall apply to businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code 11346.5(a)(13), the Board must determine that no reasonable alternative it considers or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-9418

The designated backup person in the event Mr. Zimny is not available is Doug Wickizer, California Department of Forestry and Fire Protection, at the above address and phone (916) 653-5602.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, back-

ground, and justification for the proposed regulations. The statement is available from the contact person on request.

When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the proposed action, using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKE-THROUGH~~ to indicate a deletion, is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office at the above address. All of the above referenced information is also available on the CDF web site at:

http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

TITLE 14. FISH AND GAME COMMISSION

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the au-

thority vested by sections 1050, 5510, 8550, 8552.1, 8553 and 8555 of the Fish and Game Code and to implement, interpret or make specific sections 713, 8043, 8550, 8552, 8552.6, 8553, 8554, 8555, 8556, 8557 and 8559, of said Code, proposes to amend sections 163 and 164, Title 14, California Code of Regulations, relating to the Commercial Herring Fishery.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Under existing law, herring may be taken for commercial purposes only under a revocable permit, subject to such regulations as the Fish and Game Commission shall prescribe. Current regulations specify: permit qualifications; permit application procedures and requirements; permit limitations; permit areas; vessel identification requirements; fishing quotas; seasons; gear restrictions; quotas; and landing and monitoring requirements.

The proposed regulations would establish the fishing quota and season dates and times that fishing operations are allowed for the 2008–09 season in San Francisco Bay and season dates and times for fishing operations for the 2008–09 season in Tomales Bay.

The following is a summary of the proposed changes in Sections 163, and 164, Title 14, CCR:

- The proposed regulations would establish the fishing quota for San Francisco Bay for the 2008–09 herring fishing season, based on the most recent biomass assessments of spawning populations of herring. The Department is providing the Commission the option to consider a quota within the range of 0 to 10 percent of the 2007–08 spawning biomass estimate of 11,183 tons. The Department is recommending the San Francisco Bay quota be set at 1,118 tons, which represents 10 percent of the 2007–08 spawning biomass estimate. If the Commission were to adopt this option, a 1,118 ton quota would result in a 1.9 ton individual quota for a “CH” gillnet permittee and a 1.1 ton individual quota for a non-“CH” gillnet permittee participating in the HEOK fishery.
- There are no quota changes proposed for Crescent City Harbor, Humboldt or Tomales bays for the 2008–09 herring season.
- Proposed regulations would allow fishing in San Francisco Bay from 5:00 p.m. on Monday, December 1, 2008, until noon on Friday, December 19, 2008 (“DH” gill net platoon only). Recommended dates for the odd and even platoons are from 5:00 p.m. on Sunday, January 4, 2009, until noon on Friday, March 20, 2009.

- The proposed regulations would set the dates of the roe herring fishery in Tomales Bay from noon on Friday, December 26, 2008, until noon on Friday, February 27, 2009.

Following are minor changes proposed to clarify and simplify the regulations:

- The proposed regulations would correct the Limited Entry Pacific Herring permit application number revision date in subsection 163(b)(1) and Herring Eggs on Kelp permit application number revision date in subsection 164(h)(1) to coincide with the 2008–09 season application.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the City of Carpinteria, City Council Chambers, 5775 Carpinteria Avenue, Carpinteria, California, on Friday, August 8, 2008, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at Truckee Donner Public Utilities District, 11570 Donner Pass Road, Truckee, California on Friday, September 5, 2008, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before August 22, 2008, at the address given below, or by fax at (916) 653–5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on September 2, 2008. All comments must be received no later than September 5, 2008, at the hearing in Truckee, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~–underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244–2090, phone (916) 653–4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Sheri Tiemann at the preceding address or phone number. **John Mello, Marine Region, phone (707) 441–5756, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action

shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The California commercial herring fishery takes place in four areas; San Francisco Bay, Tomales Bay, Humboldt Bay, and Crescent City Harbor. However, the greatest economic benefit is derived from herring activities in San Francisco Bay, which typically generates about 90 percent of the total average annual revenue for this California fishery. In real dollars, San Francisco Bay herring revenue has averaged about \$2.7 million out of \$3.0 million for the State, since 2004. All the herring fishermen and herring processing plants are small businesses as defined under Government Code Section 11342.610. Since the proposed quota of 10 percent spawning biomass will result in a 2.1 percent increase in allowable harvest compared to last season, there are no adverse economic impacts associated with the proposed regulation.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None
- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with

the proposed action. There are no new fees or reporting requirements stipulated under the proposed regulations.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None
- (e) Nondiscretionary Costs/Savings to Local Agencies: None
- (f) Programs mandated on Local Agencies or School Districts: None
- (g) Costs Imposed on Any Local Agency or School District that is required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None
- (h) Effect on Housing Costs: None

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

TITLE 17. DEPARTMENT OF PUBLIC HEALTH

ACTION: Notice of Proposed Rulemaking
Title 17, California Code of Regulations

SUBJECT: **Transportation of Radioactive Material, DPH-07-008**

PUBLIC PROCEEDINGS

Notice is hereby given that the California Department of Public Health will conduct written public proceedings, during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Radiation Control Law (Health & Saf. Code, §§ 114960-115273), requires the California Department of Public Health (Department), the successor to the California Department of Health Services pursuant

to the California Public Health Act (CPHA) of 2006 (Stats. 2006, c. 241 (Ortiz, SB 162)) as of July 1, 2007, to develop programs for licensing and regulating radioactive materials. (Health & Saf. Code, § 115000, subd. (b).) In 1962, the State of California ratified and approved the State entering into an agreement with the United States Atomic Energy Commission (AEC), the predecessor of the United States Nuclear Regulatory Commission (NRC), by which the federal agency discontinued its regulatory authority over certain radioactive materials. (Health & Saf. Code, § 115230.) By such action California became an "Agreement State."

A provision of the agreement between California and the NRC specifies that the State "will use its best efforts to maintain continuing compatibility between its program and the program of the [United States Atomic Energy] Commission for the regulation of like materials." (Health & Saf. Code, § 115235, art. V.) NRC's stated policy is "to evaluate Agreement State programs established pursuant to Section 274 of the Atomic Energy Act of 1954, as amended, to ensure they are adequate to protect public health and safety and compatible with NRC's regulatory program." To determine a state's compatibility, the NRC uses Management Directive 5.9, *Adequacy and Compatibility of Agreement State Programs, Handbook 5.9*. This handbook describes the specific criteria and process that are used to clarify the NRC program elements that should be adopted and implemented by an Agreement State for purposes of compatibility, and those NRC program elements that have a particular health and safety significance. The NRC rates the elements on the degree of compatibility required. Thus, the NRC requires that some elements be adopted by the states in a form identical to the NRC's while adoption of other elements need not be identical but are required to meet the essential objective of the NRC program element. (For NRC compatibility definitions, see Attachment 1.) The overall determination of adequacy and compatibility for an Agreement State is made pursuant to Management Directive 5.6, *The Integrated Materials Performance Evaluation Program (IMPEP)*. The NRC evaluates Agreement States every three to four years to determine if a state's radiation safety program meets the adequacy and compatibility criteria. If California fails to meet those criteria the NRC may revoke California's status as an Agreement State.

Two federal agencies, the Department of Transportation (DOT) and the NRC have established strict requirements for packaging and shipping radioactive material. These requirements are based on the volume, nature and radioactivity of the material. DOT regulates package labeling, shipping papers, personnel training, handling and storage as well as transportation routing and vehicle requirements. The NRC regulates package safety to

protect workers and the public. It also establishes regulations for radiation protection and regulates the use of radioactive materials, including the licensing and regulation of shippers and carriers.

Each year, there are approximately 400 million packages of hazardous material shipped in the United States. Radioactive materials account for less than one percent of these shipments. Of these three million packages containing radioactive material, the vast majority are shipments of radiopharmaceuticals and radioisotopes used in medical applications. Transported radioactive materials also include smoke detectors, luminous dials, sources used in non-destructive testing, and waste from industrial and medical facilities contaminated with small amounts of radioactive material.

The proposed changes to the California Code of Regulations are in response to changes made by the NRC regarding the packaging and transportation of radioactive materials found in title 10, Code of Federal Regulations (CFR), Part 71 (10 CFR 71). The NRC amended its regulations on packaging and transporting radioactive materials effective October 1, 2004. This rulemaking made the NRC regulations compatible with the latest version of the International Atomic Energy Agency (IAEA) standards. As international standards are updated, national and state regulations must be amended to maintain consistency and compatibility on all levels including the packaging and transportation of radioactive material across state and national borders.

The IAEA reviews its transportation regulations at intervals of about 10 years recognizing that its international regulations for the safe transportation of radioactive material should be revised periodically to reflect scientific and technical advances and experiences.

The NRC also periodically revises its regulations for the safe transportation of radioactive material to make them compatible with those of the IAEA. On August 5, 1983, the NRC published a revision of 10 CFR 71. That revision, in combination with a parallel revision of the hazardous materials transportation regulations of the Department of Transportation (DOT), brought U.S. domestic transport regulations into general accord with the 1973 edition of the IAEA transport regulations. Another revision to 10 CFR 71 was published on September 28, 1995 (60 FR 50248) to make part 71 compatible with the 1985 IAEA Safety Series No. 6. The DOT published its corresponding revision to title 49, CFR (49 CFR) on the same date (60 FR 50291).

The last revision to the IAEA Safety Series 6, Safety Standards Series ST-1 was published in December 1996, and revised with minor changes on June 2000, and redesignated as TS-R-1. NRC Staff compared changes made in TS-R-1 and identified affected sections of 10 CFR 71. Based on this comparison, NRC amended 10 CFR 71 (69 FR 3968, January 26, 2004)

and implemented those changes effective October 1, 2004.

Historically, the NRC has coordinated its part 71 revisions with the DOT because the DOT is the responsible national authority for transportation of hazardous materials. "Radioactive Materials" is a subset of "Hazardous Materials" in 49 CFR under DOT authority. Currently, DOT and NRC co-regulate transport of nuclear material in the United States.

To ensure compliance with the NRC agreement and compatibility of State regulations including consistency with DOT requirements, this proposal amends existing regulations relating to transportation of radioactive material and addresses those changes made by the NRC as noted in the following Federal Registers regarding transportation:

60 FR 50248 (Sep. 28, 1995)

61 FR 28724 (Jun. 6, 1996)

69 FR 3697 (Jan. 26, 2004)

The statutory authority and reference citation numbers of sections being amended are changed to reflect the numbering system implemented by the 1995 recodification of the Health and Safety Code and the authority granted the Department under the California Public Health Act of 2006, resulting in non-substantial changes pursuant to title 1, California Code of Regulations, §100.

The regulations that implement, interpret and make specific the provisions of the Radiation Control Law are in title 17, California Code of Regulations, §§30100 through 30395.

The Department has determined that, because the radiation control program must maintain compatibility with the regulations of the United States Atomic Energy Commission, the predecessor to the United States Nuclear Regulatory Commission (Health & Saf. Code, § 115230), no alternative considered by the Department would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

According to the agreement, the state is to use its "best efforts to maintain continuing compatibility between its program and the program of the [United States Atomic Energy] Commission for the regulation of like materials. . ." (Health & Saf. Code, § 115235, art. V). NRC categories A and B require that the State be "essentially identical" to the NRC; category C requires that the "essential objectives" are met; category D is not required for purposes of compatibility; and category H&S is not required for purposes of compatibility, but does have health and safety significance and requires adoption of regulations meeting the essential objectives for an adequate program. According to the agreement, the

state is to use its “best efforts to maintain continuing compatibility between its program and the program of the [United States Atomic Energy] Commission for the regulation of like materials. . .” (Health & Sat Code, § 115235, art. V).

The Department proposes to:

Amend **Section 30100, General Definitions**, for consistency with the California Public Health Act (CPHA) of 2006 (Stats. 2006, c. 241 (Ortiz, SB 162)) as it relates to the definition of “Department” found in section 30100(d) and the corresponding sections in the California Vehicle Code and Health and Safety Code as it relates to the definition of “Hazardous radioactive material” found in section 30100(f).

Amend **Section 30346.1, Labels, Security and Transportation**, for consistency with Section 30373.

Amend **Section 30373, Transportation Regulations**, for consistency with NRC’s regulations in title 10 Code of Federal Regulations (10 CFR), Part 71 published January 1, 2007. Title 10, CFR, Part 71 published on January 1, 2007 is incorporated by reference. Title 49, CFR, parts 107, 171 through 180, and 390 through 397 referenced in 10 CFR 71 effective on or as of January 1, 2007 are incorporated by reference.

AUTHORITY

Sections 114765, 114820, 115000 and 131200, Health and Safety Code.

REFERENCE

Sections 114740, 114765, 114965, 114970, 114985, 115060, 115230, 115235, 131050, 131051 and 131052, Health and Safety Code.

COMMENTS

Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Office of Regulations and Hearings by 5 p.m. on August 29, 2008, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost. The telephone numbers for accessing this service are: 1-800-735-2929, if you have a TDD; or 1-800-735-2922, if you do not have a TDD. Written comments may be submitted as follows:

1. By mail or hand-delivered to the Office of Regulations and Hearings, California Department of Public Health, MS 0507, 1501 Capitol Avenue, P.O. Box 997377, Sacramento, CA 95899-7377. It is requested but not required that written comments sent by mail or hand-delivered be submitted in triplicate; or
2. By fax transmission: (916) 440-7714; or
3. By email to regulations@cdph.ca.gov (it is requested that email transmissions of comments, particularly those with attachments, contain the regulation package identifier “**DPH-07-008**” in the subject line to facilitate timely identification and review of the comment).

All comments, including email or fax transmissions, should include the author’s name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes to the regulation text on which additional comments may be solicited.

INQUIRIES

Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Phillip L. Scott of the Radiologic Health Branch at (916) 440-7978, or to the designated backup contact person, Jennifer Granger at (916) 440-7443.

All other inquiries concerning the action described in this notice may be directed to Barbara Gallaway of the Office of Regulations and Hearings at (916) 440-7689, or to the designated backup contact person, Miyoko Sawamura at (916) 440-7690.

CONTACTS

In any inquiries or written comments, please identify the action by using the Department regulation package identifier, DPH-07-008.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. The Office of Regulations and Hearings, at the address noted above, will be the location of public records, including reports, documentation, and other material related to the proposed regulations (rule-making file). In addition, a copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations and Hearings.

Materials regarding the action described in this notice (including this public notice, the regulation text, and the initial statement of reasons) that are available via the Internet may be accessed at www.cdph.ca.gov by clicking on these links, in the following order: Decisions Pending and Opportunity for Public Participation, Regulations, Proposed.

In order to request a copy of this public notice, the regulation text, and the initial statement of reasons be mailed to you, please call (916) 440-7689 (or California Relay at 711/1-800-735-2929), or email regulations@cdph.ca.gov, or write to the Office of Regulations and Hearings at the address noted above. Upon specific request, these documents will be made available in Braille, large print, and audiocassette or computer disk.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available by the Department's Office of Regulations and Hearings at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

FISCAL IMPACT ESTIMATE

- A. Fiscal Effect on Local Government: None.
- B. Fiscal Effect on State Government: None.
- C. Fiscal Effect on Federal Funding of State Programs: None.
- D. All cost impacts, known to the Department at the time the notice of proposed action was submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- E. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None.

DETERMINATIONS

The Department has determined that the proposed regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

The Department has made an initial determination that the proposed regulations would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Businesses in being compliant with federal requirements for transporting radioactive material already meet the proposed regulations. Thus, there will be no significant adverse economic impact on California businesses.

The Department has determined that the proposed regulations would not significantly affect the following:

- (1) The creation or elimination of jobs within the State of California.
- (2) The creation of new businesses or the elimination of existing businesses within the State of California.
- (3) The expansion of businesses currently doing business within the State of California.

The Department has determined that the proposed regulations would affect small business.

The Department has determined that the proposed regulations will have no impact on housing costs.

ADDITIONAL STATEMENTS AND COMMENTS

In accordance with Government Code Section 11346.5(a)(13) the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

No hearing has been scheduled; however any interested person or his or her duly authorized representative may request in writing, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Government Code Section 11346.8.

For individuals with disabilities, the Department will provide assistive services such as sign-language interpretation, real-time captioning, note takers, reading or writing assistance, and conversion of public hearing materials into Braille, large print, audiocassette, or computer disk. To request such services or copies in an alternate format, please call or write: Barbara Gallaway, Office of Regulations and Hearings, MS 0507, P.O. Box 997377, Sacramento, CA 95899-7377, voice (916) 440-7689 and/or California Relay 711/1-800-735-2929. Note: The range of assistive services available may be limited if requests are received less than ten business days prior to a public hearing.

TITLE 17. DEPARTMENT OF PUBLIC HEALTH

ACTION: Notice of Proposed Rulemaking
Title 22, California Code of Regulations

SUBJECT: Scope of Practice in Licensed Health Facilities, **DPH-05-010**

PUBLIC PROCEEDINGS

Notice is hereby given that the California Department of Public Health will conduct a public hearing commencing on September 29, 2008, at 10 a.m. in the Auditorium, 1500 Capitol Avenue, Sacramento, CA, during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Health and Safety Code sections 1275 and 100275 grant the California Department of Health Services the general authority to adopt, amend, enforce, or repeal any reasonable rules and regulations as may be necessary to enable the Department to exercise the powers and perform the duties conferred upon it. In 2007, the Department of Health Services was legislatively reorganized (Ortiz, S.B. 162, Chapter 241, Statutes of 2006) into two separate departments, the new Department of Health Care Services and the new Department of Public Health. Health and Safety Code (HSC) section 131051 transferred the duties, powers, and responsibilities of the Licensing and Certification (L&C) Program to the Department of Public Health and HSC section 131200 vests rulemaking authority for L&C in the Department of Public Health (Department).

Standards with which healthcare facilities shall comply for licensure are found in Title 22 California Code of Regulations (CCR) Division 5. The California Department of Public Health (Department) is proposing amendments to Division 5 of the CCR to affirm the rights of a licensed health care practitioner who, acting within the scope of his or her professional licensure and as a member of the medical staff, assumes overall responsibility for the care of a patient. The proposed amendments are necessary to bring the regulations into conformance with Health and Safety Code Sections 1315, 1316, and 1316.5. The proposed regulation amendments delete specific references to a physician in those instances when another category of licensed health care practitioner, as a member of the medical

staff and within the scope of his or her professional licensure, is authorized by law to perform the function.

The statutory provisions being addressed by the proposed amendments are summarized as follows:

1. Health and Safety Code Section 1315 provides that dental services, as defined in the Dental Practice Act, may be provided patients in licensed health facilities. Such services shall be provided by persons licensed by the State of California pursuant to Section 1611 of the Business and Professions Code. However, this section shall not limit or restrict the right of a licensed physician and surgeon to perform any acts authorized under the Medical Practice Act.
2. Health and Safety Code Section 1316 provides that the rules of a health facility shall include provisions for the use of the facility by, and staff privileges for, duly licensed podiatrists within the scope of their respective licensure, subject to rules and regulations governing such use or privileges established by the health facility. Such rules and regulations shall not discriminate on the basis of whether the staff member holds a M.D., D.O., or D.P.M. degree, within the scope of their respective licensure. . . medical staff status shall include and provide for the right to pursue and practice full clinical and surgical privileges for holders of M.D., D.O., and D.P.M., degrees within the scope of their respective licensure. . . If a health service is offered, the facility shall not discriminate between persons holding M.D., D.O., or D.P.M. degrees who are authorized by law to perform such services.
3. Health and Safety Code Section 1316.5 provides that each health facility owned and operated by the state offering care or services within the scope of practice of a psychologist shall establish rules and medical staff by laws that included provisions for medical staff membership and clinical privileges for clinical psychologists within the scope of their licensure as psychologists. . the rules and regulations shall not discriminate on the basis of whether the staff member holds an M.D., D.O., D.D.S., D.P.M., or doctoral degree in psychology. . . medical staff status shall include and provide for the right to pursue and practice full clinical privileges for holders of a doctoral degree of psychology within the scope of their respective licensure.
4. For health facilities not owned or operated by the state, Health and Safety Code Section 1316.5 provides "If a health service is offered by a health facility with both licensed physicians and surgeons and clinical psychologists on the medical

staff, which both licensed physicians and surgeons and clinical psychologists are authorized by law to perform, the service may be performed by either, without discrimination.”

Additionally, the Department made punctuation, capitalization and spelling changes, remedying word omissions and the updating of the authority and reference note as nonsubstantive amendments.

Specifically, the sections in 22 CCR Division 5 proposed for amendment are as follows:

Chapter 1. General Acute Care Hospitals. Sections 70577, 70703, 70706, 70707, 70717, 70749, 70751 and 70753.

Chapter 2. Acute Psychiatric Hospital. Sections 71203, 71205, 71503, 71507, 71517, 71545, 71551 and 71553.

Chapter 3. Skilled Nursing Facilities. Sections 72091, 72109, 72303, 72311, 72315, 72319, 72337, 72413, 72423, 72433, 72453, 72461, 72471, 72515, 72523, 72525, 72528, 72543, and 72547.

Chapter 4. Intermediate Care Facilities. Sections 73077, 73089, 73303, 73311, 73313, 73315, 73329, 73399, 73409, 73449, 73469, 73479, 73489, 73517, 73519, 73523, 73524, 73543 and 73547.

Chapter 11. Chemical Dependency Recovery Hospital Licensing Regulations. Sections 79315, and 79351.

Chapter 12. Correctional Treatment Centers. Sections 79637 and 79689.

AUTHORITY

Sections 1267.10(a), 1275, 1275.2, 100275 and 131200, Health and Safety Code.

REFERENCE

Sections 1250(j), 1250.3, 1254, 1254.2, 1255, 1260.3, 1275, 1275.2, 1276, 1285, 1315, 1316, 1316.5, 1320, 1599, 1599.1, 1599.72, 131050, 131051 and 131052, Health and Safety Code; Section 5325, Welfare and Institutions Code; *Valdivia, et al. v. Coye*, US District Court for the Eastern District of California, Case No. CIV S-90-1226; *Cobbs v. Grant* (1972) 8Cal. 3d 229.

COMMENTS

Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Office of Regulations and Hearings by 5 p.m. on October 1, 2008, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost. The telephone numbers for accessing this service are: 1-800-735-2929, if you have a TDD; or

1-800-735-2922, if you do not have a TDD. Written comments may be submitted as follows:

1. By mail or hand-delivered to the Office of Regulations and Hearings, California Department of Public Health, MS 0507, 1501 Capitol Avenue, P.O. Box 997377, Sacramento, CA 95899-7377. It is requested but not required that written comments sent by mail or hand-delivered be submitted in triplicate; or
2. By fax transmission: (916) 440-5747; or
3. By email to regulations@cdph.ca.gov (it is requested that email transmissions of comments, particularly those with attachments, contain the regulation package identifier “DPH-05-010” in the subject line to facilitate timely identification and review of the comment).

All comments, including email or fax transmissions, should include the author’s name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes to the regulation text on which additional comments may be solicited.

INQUIRIES

Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Gina Henning, Chief Policy, Research and Enforcement Branch of Licensing and Certification, at (916) 440-7360.

All other inquiries concerning the action described in this notice may be directed to Barbara Gallaway of the Office of Regulations and Hearings at (916) 440-7689, or to the designated backup contact person, Maureen Miyamura, at (916) 440-7841.

CONTACTS

In any inquiries or written comments, please identify the action by using the Department regulation package identifier, DPH-05-010.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. The Office of Regulations and Hearings, at the address noted above, will be the location of public records, including reports, documentation, and other material related to the proposed regulations (rule-making file). In addition, a copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations and Hearings.

Materials regarding the action described in this notice (including this public notice, the regulation text, and the initial statement of reasons) that are available via the Internet may be accessed at www.cdph.ca.gov by clicking on these links, in the following order: Decisions Pending and Opportunity for Public Participation, Regulations, Proposed.

In order to request a copy of this public notice, the regulation text, and the initial statement of reasons be mailed to you, please call (916) 440-7695 (or California Relay at 711/1-800-735-2929), or email regulations@cdph.ca.gov, or write to the Office of Regulations and Hearings at the address noted above. Upon specific request, these documents will be made available in Braille, large print, and audiocassette or computer disk.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available by the Department's Office of Regulations and Hearings at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

FISCAL IMPACT ESTIMATE

- A. Fiscal Effect on Local Government: None
- B. Fiscal Effect on State Government: None
- C. Fiscal Effect on Federal Funding of State Programs: None
- D. All cost impacts, known to the Department at the time the notice of proposed action was submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- E. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None

DETERMINATIONS

The Department has determined that the proposed regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

The Department has made an initial determination that the proposed regulations would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The Department has determined that the proposed regulations would not significantly affect the following:

- (1) The creation or elimination of jobs within the State of California.
- (2) The creation of new businesses or the elimination of existing businesses within the State of California.
- (3) The expansion of businesses currently doing business within the State of California.

The Department has determined that the regulations would not affect small business because the proposed amendments implement the California statutory mandate that as members on a healthcare facility's organized medical staff, the rules shall not discriminate on the basis of whether the staff member holds an M.D., D.O., D.D.S., D.P.M or doctoral degree in psychology and they may perform any health service they are authorized by law to perform without discrimination. The proposed amendments implement the mandates of state statute, specifically Health and Safety Code Sections 1315, 1316, and 1316.5.

The Department has made the initial determination that the adoption of these proposed regulations would not have a significant statewide effect on housing costs.

ADDITIONAL STATEMENTS AND COMMENTS

In accordance with Government Code Section 11346.5(a)(13) the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

Other regulation changes may be scheduled for hearing at the same time appointed for public hearing on the action described in this notice. An agenda for the public hearing will be posted at the time and place of hearing designated above.

For individuals with disabilities, the Department will provide assistive services such as sign-language interpretation, real-time captioning, note takers, reading or writing assistance, and conversion of public hearing materials into Braille, large print, audiocassette, or computer disk. To request such services or copies in an alternate format, please call or write: Barbara Gallaway, Office of Regulations and Hearings, MS 0507, P.O. Box 997377, Sacramento, CA

95899-7377, voice (916) 440-7689 and/or California Relay 711/1-800-735-2929. Note: The range of assistive services available may be limited if requests are received less than ten business days prior to a public hearing.

TITLE 22. EMPLOYMENT DEVELOPMENT DEPARTMENT

Amendment of Title 22, California Code of Regulations Section 2051-3

VERIFICATION CRITERIA

Notice of Proposed Rulemaking

The Employment Development Department (Department) proposes to amend California Code of Regulations (CCR), title 22, section 2051-3 to: (1) delete the existing outdated listing of Employment Authorization Document (EAD) forms in the CCR used to verify an individual's true identity and legal right to work prior to the provision of employment services and (2) substitute a reference to federal law where valid EAD forms are listed and described.

The Department will adopt these regulations after considering all comments, objections, or recommendations regarding the proposed regulatory action.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

California Unemployment Insurance Code section 9601.5 requires the Department's Workforce Services Branch to determine an individual's legal status and right to work based on procedures established under federal law before employment services can be provided. The Department relies on the employment verification provisions of the Immigration and Nationality Act Section 274A (8 U.S.C. § 1324a) and Title 8 Code of Federal Regulations part 274a.2 for direction concerning acceptable documentation.

The federal list of EAD forms is revised as needed when new legislation, such as the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and the Enhanced Border Security Act of 2002, is signed into law. When the federal list is revised, the Department must revise its regulation to maintain conformance to federal law.

If section 2051-3 is revised to delete the existing outdated listing of EAD forms and simply reference federal

law where the currently acceptable forms are already listed and described, the Department will not need to revise section 2051-3 each time the federal government amends the list of acceptable EAD forms. Instead, future changes to the list of EAD forms can be addressed using appropriate administrative processes that may be quickly completed. The administrative process would consist of revising an existing Department form on an on-going administrative basis to list the valid EAD documents as set out in federal law. In addition, the Department's automated job matching system can be enhanced with customer help screens that list valid EAD documents so the Department's customers can be continuously apprised of changes in the list in conformity with federal law.

The proposed amendment is necessary to streamline the provisions of section 2051-3 and ensure that the Department's regulation always references the current federal employment authorization documents.

The following proposed amendment to CCR, title 22, section 2051-3, will:

1. Delete from this section the existing outdated listing of EAD forms.
2. Add references to the employment authorization provisions set out in the Immigration and Nationality Act Section 274A and Title 8 Code of Federal Regulations part 274a.2 that list valid EAD forms.

The proposed amendment will address the two above-referenced items.

Authority and Reference:

Authority: Sections 305 and 306, Unemployment Insurance Code. Reference: Sections 9601.5 and 9601.7, Unemployment Insurance Code.

Fiscal Impact:

Anticipated costs or savings in federal funding to the State: The Department cannot estimate the amount of anticipated savings, but adoption of this proposal would eliminate the need for further regulatory changes, thus eliminating the administrative costs of making such changes. The total administrative costs saved would probably be a minimal amount.

Anticipated costs or savings to any State Agency: The Department cannot estimate the amount of anticipated savings, but adoption of this proposal would eliminate the need for further regulatory changes, thus eliminating the administrative costs of making such changes. The total administrative costs saved would probably be a minimal amount.

Anticipated costs or savings to any local agency or school district: None

Significant statewide adverse economic impact: The Department does not anticipate this regulatory action will result in any costs to the federal government, to

State government, to local county governments, to private individuals, or to businesses and small businesses. Thus, no costs were shown on the Economic and Fiscal Impact Statement.

The Department has made an initial determination that the proposed amendment will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states because this regulation makes only clarifying changes to the current regulation in substituting the existing listing of EAD documents with a reference to federal law. The Department has determined that the proposed amendment will not affect the creation or elimination of jobs within the State of California; the creation of new businesses or the elimination of existing businesses within the State of California; or the expansion of businesses currently doing business within the State of California.

The cost impact on representative persons or businesses: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Anticipated impact on housing costs: This proposed amendment will have no effect on housing costs.

Anticipated nondiscretionary costs or savings imposed upon local agencies: None

Small Business Impact:

The Department has determined the proposed amendment will have no impact on small businesses, as the proposed amendment will not impose any new mandates, requirements or cost from the enforcement of this regulation on small businesses.

Local Mandate Determination:

The Department has determined that this proposed amendment will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be reimbursed by the State pursuant to Part 7 (commencing with section 17500), Division 4 of the Government Code.

Consideration of Alternatives:

In accordance with section 11346.5(a)(13) of the Government Code, the Department must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action.

Written Comment Period:

Any interested person, or his or her authorized representative, may submit written comments on the proposed action to Laura Colozzi via U.S. mail, e-mail, or

fax (see U.S. mail and e-mail address and fax number indicated below). **E-mail comments should include true name and mailing address of the commentor. Written comments submitted via U.S. mail, e-mail, or fax, must be received by the Department no later than August 25, 2008, at 5 p.m.** Please submit any written comments before that time. The Department cannot accept written comments after the close of the public comment period.

Contact Persons

Inquiries or comments should be directed to:

(Mailing address) Laura Colozzi, Legal Analyst
Employment Development
Department
P. O. Box 826880
Legal Office, MIC 53
Sacramento, CA 94280-0001

(Hand delivery) Laura Colozzi, Legal Analyst
Employment Development
Department
800 Capitol Mall, Room 5020
Legal Office, MIC 53
Sacramento, CA 95814

Telephone No.: (916) 654-7712

Fax No.: (916) 654-9069

E-Mail Address: eddlegal@edd.ca.gov

Note: In the event Laura is unavailable, inquiries should be directed to the following backup contact persons at the same address as noted above:

Name: Penny Ayers, Legal Analyst

Telephone No.: (916) 654-8410

Questions regarding the substance of the proposed regulatory action should be directed to:

Name: Deanna Asuncion, Staff Counsel

Telephone No.: (916) 654-8410

Internet Website Access

The Department has posted on its internet website <http://www.edd.ca.gov> materials regarding the proposed regulatory action. Select "Proposed Regulations."

Public Hearing:

No public hearing has been scheduled on the proposed action. However, if any person desires to submit oral comments, the Department will schedule a public hearing upon that person's written request. **Such request must be received no later than 15 days prior to the close of the written comment period which is 5 p.m. on August 25, 2008.** A request for hearing can be made by contacting the persons noted above.

Modification of Proposed Action:

If the Department makes any additional changes based on public testimony, those changes (other than nonsubstantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted. Copies of any additional changes regarding the proposed regulatory action will be mailed to all persons who testified or submitted written comments at the public hearing (if one is scheduled); whose comments were received by the agency during the public comment period; and who requested notification from the agency of the availability of such changes.

Final Statement of Reasons:

After the close of the 45-day public comment period, the Department will summarize and respond to all public comments in a written final statement of reasons. To obtain a copy of the final statement of reasons, contact the persons noted above, or access the Department's Internet website at <http://www.edd.ca.gov>.

Further Information:

The Department has prepared and has available for review, upon request, the text of the proposed regulations discussed in this notice, written in plain English; a statement of reasons setting forth the purpose of the proposed regulations; and the information upon which the Department relied in proposing the regulations. (If you received this notice by mail, a copy of the text of the proposed regulations and the statement of reasons were enclosed.) To obtain a copy, contact the persons noted above, or access the Department's Internet website at <http://www.edd.ca.gov>.

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review. For inquiries regarding the rulemaking file or the regulations' process, contact the persons noted above.

GENERAL PUBLIC INTEREST

FISH AND GAME COMMISSION

NOTICE OF FINDINGS

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Fish and Game Code Section 2074.2, the California Fish and Game Commission, at its April 10, 2008, meeting in Bodega Bay, rejected the petition filed by the Center for Biological Diversity to list the American pika (*Ochotona princeps*) as a threatened species based on a finding that the petition did not provide suffi-

cient information to indicate that the petitioned action may be warranted. At this meeting, the Commission also announced its intention to ratify its findings.

NOTICE IS ALSO GIVEN that, at its June 27, 2008, formal meeting in Upland, the Commission adopted the following formal findings outlining the reasons for the rejection of the petition.

**I
BACKGROUND**

August 22, 2007. The Commission office received a petition from the Center for Biological Diversity (CBD) to list the American pika as threatened under the California Endangered Species Act (CESA).

August 30, 2007. The Commission office referred the petition to the Department of Fish and Game (Department) for review and analysis pursuant to Section 2073.5 of the Fish and Game Code.

September 10, 2007. The Commission submitted a notice of receipt of the petition, for publication in the California Regulatory Notice Register, as well as for mailing to interested and affected parties.

September 13, 2007. The Department submitted a written request for a 30-day extension to evaluate the petition.

October 12, 2007. The Commission approved the Department's request for a 30-day extension to evaluate the petition.

December 21, 2007. The Department submitted its written evaluation of the petition.

February 7, 2008. The Commission announced receipt of the Department's evaluation of the petition to list the American pika as threatened and indicated its intent to consider the petition, the Department's evaluation, and public comments at the March 6-7, 2008 meeting.

March 4, 2008. The Commission office received a 25-page letter from CBD in rebuttal to the Department's evaluation. Six additional exhibits were appended to this letter.

March 7, 2008. The Department discussed its evaluation of the petition at the Commission's March meeting. The Commission took comments on the petition and the Department's evaluation. Because of the additional information submitted by CBD, the Commission continued consideration of the petition to the April 10-11 meeting in Bodega Bay.

April 8, 2008. The Commission office received an e-mail message from Mr. Brian Nowicki of CBD, with four attachments pertaining to the American pika.

April 10, 2008. The Commission considered the petition and took additional comments related to it and the Department's evaluation. At this meeting the Commission rejected the petition, finding that it did not contain

sufficient information to indicate the petitioned action may be warranted. Staff was directed to prepare a draft statement of Commission findings pursuant to Fish and Game Code Section 2074.2.

II STATUTORY REQUIREMENTS

A species is endangered under CESA (Fish and Game Code Section 2050 et seq.), if it “is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, over exploitation, predation, competition, or disease.” (Fish & G. Code, § 2062.) A species is threatened under CESA if it is “not presently threatened with extinction [but] is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by [CESA]. . . .” (Fish & G. Code, § 2067.) Responsibility for deciding whether a species should be listed as endangered or threatened rests with the Commission (Fish & G. Code, § 2070).

California law does not define what constitutes a “serious danger” to a species, nor does it describe what constitutes a “significant portion” of a species’ range. The Commission makes the determination as to whether a species currently faces a serious danger of extinction throughout a significant portion of its range, (or for a listing as threatened whether such a future threat is likely) on a case-by-case basis after evaluating and weighing all the biological and management information before it. This approach is consistent with the process followed by federal agencies in deciding whether to list species under the Federal Endangered Species Act (16 U.S.C. § 1531 et seq.).

Non-emergency listings involve a two-step process. First, the Commission “accepts” a petition to list the species, which immediately involves regulatory protections by establishing the species as a candidate for listing and triggers a year-long study by the Department of the species’ status (Fish & G. Code, §§ 2074.2, 2074.6, and 2084). Second, the Commission considers the Department’s status report and information provided by other parties and makes a final decision to formally list the species as endangered or threatened (Fish & G. Code, § 2075.5).

To be accepted by the Commission, a petition to list a species under CESA must include sufficient scientific information that the listing may be warranted. (Fish & G. Code, § 2072.3, Cal. Code Regs., tit. 14, § 670.1, subds. (d) and (e)). The petition must also include information regarding the species’ population trend, range, distribution, abundance and life history; factors affecting the species’ ability to survive and reproduce;

the degree and immediacy of the threat to the species; the impact of existing management efforts; suggestions for future management of the species; the availability and sources of information about the species; information about the kind of habitat necessary for survival of the species; and a detailed distribution map (Fish & G. Code, § 2072.3, Cal. Code Regs., tit. 14, §670.1, subd. (d)(1)).

Upon acceptance by the Commission, a petition is forwarded to the Department for analysis. Within 90 days of receipt, the Department shall submit to the Commission an evaluation report of the petition and other available information (Fish & G. Code, § 2072.3), including a recommendation on whether the petitioned action is warranted. The Department may request and be granted a time extension of up to 30 additional days to submit the evaluation report. After public release of the Department’s evaluation report (Fish & G. Code, § 2074), the Commission will schedule the petition for consideration. In deciding whether it has sufficient information to indicate the listing may be warranted, the Commission is required to consider the petition itself, the Department’s written evaluation report, and other comments received about the petitioned action (Fish & G. Code, § 2074.2).

The requisite standard of proof to be used by the Commission in deciding whether listing may be warranted (i.e. whether to accept or reject a petition) was described in *Natural Resources Defense Council v. Fish and Game Commission* (1994) 28 Cal. App.4th 1104. In the *NRDC* case, the court determined that “the section 2074.2 phrase ‘petition provides sufficient information to indicate that the petitioned action may be warranted’ means that amount of information, when considered in light of the Department’s written report and the comments received, that would lead a reasonable person to conclude there is a substantial possibility the requested listing could occur. . . .” (*NRDC*, supra, 28 Cal. App. 4th at page 1125.) This “substantial possibility” standard is more demanding than the low “reasonable possibility” or “fair argument” standard found in the California Environmental Quality Act, but is lower than the legal standard for a preliminary injunction, which would require the Commission to determine that a listing is “more likely than not” to occur. (*Ibid.*)

The *NRDC* court noted that this “substantial possibility” standard involves an exercise of the Commission’s discretion and a weighing of evidence for and against listing, in contrast to the fair argument standard that examines evidence on only one side of the issue. (*NRDC*, supra, 28 Cal. App. 4th at page 1125.) As the Court concluded, the decision-making process involves:

. . . a taking of evidence for and against listing in a public quasi-adjudicatory setting, a weighing of that evidence, and a Commission discretion to

determine essentially a question of fact based on that evidence. This process, in other words, contemplates a meaningful opportunity to present evidence contrary to the petition and a meaningful consideration of that evidence.” (Id. at 1126.)

Therefore, in determining whether listing “may be warranted,” the Commission must consider not only the petition and the report prepared on the petition by the Department, but other evidence introduced in the proceedings. The Commission must decide this question in light of the entire record.

III REASON FOR FINDING

This statement of reasons for the finding sets forth an explanation of the basis for the Commission’s finding and its rejection of the petition to list the American pika as a threatened species. It is not a comprehensive review of all information considered by the Commission and for the most part does not address evidence that, while relevant to the proposed listing, was not at issue in the Commission’s decision. However, all written and oral comments presented to the Commission regarding the petition are considered part of the record.

In order to accept this petition, the Commission is required to determine that it has information to persuade a reasonable person that there is a substantial possibility that the American pika will be listed. As the decision in the NRDC case makes clear, the Commission must critically evaluate and weigh all evidence, and this process does not allow the Commission to resolve all uncertainties in favor of either the proponents or opponents of the listing. The Commission may deal with data gaps by drawing inferences based on available information or by relying on expert opinion that the Commission finds persuasive, but in the end the petition and other information presented to the Commission must affirmatively demonstrate the species meets the criteria for protection as a candidate species.

Fish and Game Code Section 2072.3 provides there are several factors to be considered in determining whether a petition should be accepted. The informational deficiencies and factors of Section 2072.3 most relevant to this finding are:

- (1) Population trend;
- (2) Population abundance; and
- (3) Degree and immediacy of threat.

1. **Population Trend:**

2. **Population Abundance:**

The petition contains minimal information on population abundance, density or trends. The petition reports that “. . . pika populations have

been lost from multiple low-elevation sites in Yosemite National Park during the past 90 years”. Otherwise, it reports no information regarding population numbers, except for the White Mountains (*O. p. sheltoni*) subspecies. While it appears that annual surveys recently occurred within Bodie State Historical Park (Nichols, personal communication to Gustafson, 2007), results are not reported in the Population Status portion of the petition.

The Commission finds that the population status of the American pika in California is largely unstudied and unknown. There have been no systematic, comprehensive, rangewide studies of pikas in California. Parameters to describe abundance, density, recruitment and population trends are unknown or unavailable. The petition’s statement that populations were lost from multiple low-elevation sites in Yosemite was discredited, based on a statement from a key researcher in the Yosemite National Park pika study that pika populations appeared healthy (Patton, personal communication).

Petitioners assert that because of the lack of monitoring information, a rationale for listing should not depend on showing that population status is declining in California. Instead, petitioners argue that global warming poses a threat to the long term survival of pikas in California and listing is justified because:

1. the pika is a unique mammal and extremely vulnerable to high temperatures;
2. upper elevation habitat for California pikas has experienced significant temperature increases, making it less suitable;
3. pika range in California is contracting upslope;
4. a recent study (Beever et al., 2003) reported pika population extirpations at six Oregon and Nevada locations within the Great Basin ecoregion and attributed extirpations to thermal stress from climate change; and
5. pikas in California are threatened by continued habitat alteration due to climate change.

Petitioners described potential broad scale effects of climate change on wildlife and plant communities of the Sierra Nevada ecoregion, and have cited sources to establish the vulnerability of pikas to high temperatures. However, the petition does not discuss the potential for behavioral adaptations in pikas as a method of mitigating at least some anticipated effects of global warming. This is especially relevant because pika populations at lower elevations (such as Bodie State Histor-

ical Park) apparently reduce mid-day activity as a means avoiding the heat.

The petition also asserts that upper elevation habitat for California pikas has experienced significant temperature increases and is now less suitable, because pika range in California is contracting upslope. However the petition's evaluation of microhabitat conditions at upper elevation habitat is inadequate, especially subalpine microclimate conditions related to temperature. The petition does not definitively establish that pika distribution in California has contracted (or is contracting) upslope. Moreover, the petition does not establish that upslope habitat in California is significantly limited in its availability or quality, to the extent that an upslope shift in distribution would be expected to constitute a threat to pika populations statewide.

Most important, the petition apparently attempts to use habitat conditions and population trends in the Great Basin ecoregion as proxies to predict the demise of pikas in the Sierra Nevada ecoregion of California. It does so without adequately comparing or contrasting these ecoregions. It is erroneous to assume that because they are adjacent to one another, these ecoregions are similar in terms of pika habitat suitability. Because of the availability of suitable, continuous high-elevation habitat, distribution of pikas along the Sierra Nevadas may be much more continuous than within the Great Basin. The petition fails to acknowledge or discuss this, and the Commission is not persuaded that the decimation of some pika populations in the Great Basin constitutes sufficient information to warrant listing pikas within the Sierra Nevada ecoregion in California.

Fish and Game Code Section 2072.3 clearly states that the petition must provide information about species' abundance and population trend. It is interesting to note that abundance and population trend information is available for other subspecies of pika in Alaska and China. This petition is clearly deficient in providing sufficient scientific information on both population trend and abundance.

3. Degree and immediacy of threat:

The lack of population abundance and trend information in the petition compounds the discussion of purported threats to the American pika. Without a reliable population estimate, realistic assessment of the scope of the threat to the species is impossible. Most listings of other species by the Commission were clearly documented by utilizing population size to show dramatic and measurable declines caused by the

lack of protections. Some listings of species looked to small population size initially to show the need for immediate protection.

The petition lacks empirical data to describe population trend and abundance. Instead, petitioners implicitly assume that extirpations of pika populations in the Great Basin are predictive of similar occurrences within the Sierra Nevada ecoregion. It is not reasonable to accept such an assumption without a comparison of similarities and differences between the Sierra Nevada and Great Basin ecoregions. Thus, in discussing purported threats to the American pika as a result of climate change, the petition is speculative and fails to persuade the Commission of imminent adverse effects of not listing pikas.

Fish and Game Code Section 2072.3 explicitly requires the presentation of sufficient credible information on the questions of degree and immediacy of threat and the impact of existing management efforts. Section 2072.3 provides that "Petitions shall include information regarding. . .the degree and immediacy of threat, the impact of existing management efforts. . ." The petition lacks sufficient information on the degree and immediacy of threat component of the statute under current conditions.

IV

FINAL DETERMINATION BY COMMISSION

The Commission has weighed all the scientific and general evidence in the petition, the Department's written report, and written and oral comments received from members of the public. Based upon that evidence, the Commission has determined that, although there may be some reason for concern, the petition provides insufficient evidence to persuade the Commission that the petitioned action may be warranted (Fish and Game Code Section 2074.2). In making this determination the Commission finds that the petition does not provide sufficient information in the categories of population trend, abundance, and degree and immediacy of threat to find that the petitioned action may be warranted. The Commission also finds that the petition provided insufficient information range-wide regarding population trends and abundance and immediacy of threat for the Commission to adequately assess the threat and conclude that there was a substantial possibility that the species will qualify for listing.

PROPOSITION 65**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT****CALIFORNIA ENVIRONMENTAL
PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT****SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986
(PROPOSITION 65)****NOTICE OF INTENT TO LIST ORYZALIN
July 11, 2008**

A chemical may be listed under the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as Proposition 65; codified at Health and Safety Code section 25249.5 et seq.) when a body considered to be authoritative by the state's qualified experts has formally identified the chemical as causing cancer or reproductive toxicity. The following entities are identified as authoritative bodies for this purpose: the U.S. Environmental Protection Agency, the International Agency for Research on Cancer, the U.S. Food and Drug Administration, the National Institute for Occupational Safety and Health, and the National Toxicology Program.

As the lead agency for the implementation of Proposition 65, the Office of Environmental Health Hazard Assessment (OEHHA) within the California Environmental Protection Agency intends to list the chemical, *oryzalin* (CAS No. 19044-88-3) as known to the State to cause cancer, pursuant to this administrative mechanism as provided in Health and Safety Code section 25249.8(b) and Title 27, Cal. Code of Regs., section 25306 (formally Title 22, Cal. Code of Regs., section 12306).

Relevant information related to the possible listing of *oryzalin* was requested in a notice published in the *California Regulatory Notice Register* on April 11, 2008 (Register 2008, No. 15-Z). No public comments were received.

OEHHA has determined that *oryzalin* meets the criteria for listing under Title 27, Cal. Code of Regs., section 25306, based on the findings of the U.S. Environmental Protection Agency (U.S. EPA, 2003).

OEHHA is therefore issuing this notice of intent to list this chemical under Proposition 65. A document providing more detail on the basis for the listing of *oryzalin* can be obtained from OEHHA's Proposition 65 Implementation Office at the address and telephone number indicated below, or from the OEHHA Web site at: <http://www.oehha.ca.gov/>.

Comments as to whether *oryzalin* meets the criteria for listing provided in Title 27, Cal. Code of Regs., section 25306, along with any supporting documentation, should be sent to:

Ms. Cynthia Oshita
Office of Environmental Health Hazard Assessment
Street Address: 1001 I Street
Sacramento, California 95814
Mailing Address: P.O. Box 4010
Sacramento, California 95812-4010
Fax No.: (916) 323-8803
Telephone: (916) 445-6900
E-Mail: coshita@oehha.ca.gov

Comments may also be delivered in person or by courier to the above address. In order to be considered, comments must be received at OEHHA by 5:00 p.m. on Monday, August 11, 2008.

REFERENCE

U.S. Environmental Protection Agency (U.S. EPA, 2003). *Cancer Assessment Document. Third Evaluation of the Carcinogenic Potential of Oryzalin*. Cancer Assessment Review Committee. Health Effects Division. Office of Pesticide Programs. June 25, 2003.

**SUMMARY OF REGULATORY
ACTIONS****REGULATIONS FILED WITH
SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2008-0520-01

AIR RESOURCES BOARD

Section 100 — Ocean-Going Vessels within California Waters

This action without regulatory effect corrects the location (latitude and longitude) of the point demarking

the southernmost offshore corner of CARB's definition of "Regulated California Waters (RCW)" for regulation of emissions from ocean-going vessels coming to California ports.

Title 13, 17
California Code of Regulations
AMEND: 2299.1, 93118
Filed 07/02/2008
Agency Contact: Amy Whiting (916) 322-6533

File# 2008-0618-02
BOARD OF CHIROPRACTIC EXAMINERS
Citations and Fines

This regulatory action authorizes the assessment of fines in the range of not less than \$100 or more than \$5,000 for any violations of any laws or regulations governing the practice of chiropractic, repeals existing section 390.2 which currently limits citations to specific violations, and provides that a licensee's compliance with an order of abatement or payment of a fine based upon a finding of a violation may only be disclosed to the public as a satisfactory resolution of the matter.

Title 16
California Code of Regulations
AMEND: 390, 390.1, 390.3, 390.4, 390.5, and 390.6
REPEAL: 390.2
Filed 07/02/2008
Effective 08/01/2008
Agency Contact: April Alameda (916) 263-5329

File# 2008-0515-05
Cal-PERS
Amended Board of Election Regulations

The regulations set forth the procedures and contents of the Notice of Election as well as the procedure for the Nomination of Candidates to the Board of CalPERS.

Title 2
California Code of Regulations
AMEND: 554.2, 554.3
Filed 06/26/2008
Effective 07/26/2008
Agency Contact: Joe Parilo (916) 326-3484

File# 2008-0529-02
CALIFORNIA ARCHITECTS BOARD
Examination Transition Plan

The California Architects Board (CAB) seeks to add section 119.7 to Title 16 of the California Code of Regulations relating to the national Architect Registration Examination (ARE). CAB requires that prior to becoming a licensed architect in California, a candidate must: (1) successfully complete a written examination, the ARE, which is developed by the National Council of

Architectural Registration Board (NCARB); (2) successfully complete the board developed California Supplemental Examination (CSE); (3) provide evidence of at least eight years of education and/or work experience in architecture or a related field; and (4) fulfill a structured internship. NCARB has restructured the ARE from nine divisions down to seven. Beginning July 1, 2008 they will begin a one year transition from the currently administered version 3.1 to the new version 4.0. The proposed addition of section 119.7 reflects NCARB's transition plan.

Title 16
California Code of Regulations
ADOPT: 119.7
Filed 06/30/2008
Effective 07/01/2008
Agency Contact: Sophia Cornejo (916) 575-7217

File# 2008-0529-01
CALIFORNIA ARCHITECTS BOARD
The filing of applications and examination eligibility

The California Architects Board (CAB) seeks to amend sections 109 and 116 of Title 16 of the California Code of Regulations relating to the filing of applications and examination eligibility for architects. CAB requires that prior to becoming a licensed architect in California, a candidate must: (1) successfully complete a written examination; (2) successfully complete the board developed California Supplemental Examination (CSE); (3) provide evidence of at least eight years of education and/or work experience in architecture or a related field; and (4) fulfill a structured internship. For the written examination, CAB uses the national Architect Registration Examination (ARE) which is developed by the National Council of Architectural Registration Boards (NCARB). In addition the structured internship is also developed by NCARB. The proposed changes to section 109 and 116 are based upon a new system adopted by NCARB for determining a candidate's eligibility to begin taking the ARE.

Title 16
California Code of Regulations
AMEND: 109, 116
Filed 06/26/2008
Effective 07/01/2008
Agency Contact: Sophia Cornejo (916) 575-7217

File# 2008-0523-01
DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS
Change Without Regulatory Effect

The Department of Alcohol and Drug Programs (ADP) is proposing a nonsubstantive amendment to sections 9515(d) and 10522(b) of Title 9 of the Califor-

nia Code of Regulations. ADP seeks to remove language specifying minimum, median, and maximum times for departmental approval of applications which was at one time required by the Permit Reform Act (section 15374 of the Government Code). The Permit Reform Act was repealed in 2003. The amendments will not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element as it removes obsolete language for which the statutory authority has been repealed.

Title 9
California Code of Regulations
AMEND: 9515(d), 10522(b)
Filed 07/02/2008
Agency Contact: Mary Conway (916) 445-0834

File# 2008-0627-01
DEPARTMENT OF FOOD AND AGRICULTURE
Japanese Beetle Eradication Area

This emergency regulatory action establishes Merced County as an area of eradication for the Japanese beetle (*Popillia japonica*).

Title 3
California Code of Regulations
AMEND: 3589(a)
Filed 06/30/2008
Effective 06/30/2008
Agency Contact: Stephen Brown (916) 654-1017

File# 2008-0520-03
DEPARTMENT OF SOCIAL SERVICES
FSP Recertification Simplification and SFIS Exemptions

The U.S. Department of Agriculture approved the Department's waiver request that allows the counties the option to conduct a telephone interview in lieu of a face-to-face interview for Quarterly Reporting/Prospective Budgeting (QR/PB) households during the recertification process of people receiving food stamp benefits. This also includes elderly or disabled households at initial application. This regulatory action implements this waiver. Face-to-face interviews will be conducted if requested by the household or the county determines one is necessary to verify conditions of eligibility. Additional amendments to the regulations were made to require eligible households certified out-of-office to comply with all necessary Statewide Fingerprint Imaging System (SFIS) requirements as a condition of eligibility for assistance.

Title MPP
California Code of Regulations
AMEND: 63-300, 63-504, 63-505, 63-601
Filed 06/30/2008
Effective 07/15/2008
Agency Contact: Sandra Ortega (916) 657-3174

File# 2008-0619-01
DEPARTMENT OF SOCIAL SERVICES
Emergency Regulations — Minimum Sanction Periods and County Plan Addendum

This emergency file and print action alters the sanctions process for participant noncompliance in the CalWORKS program and adds a requirement that a county submit a county plan addendum to the CalWORKS program every three years. The changes implement the statutory requirements in sections 27.3 and 29.3 of AB 1808 (Chap. 75, Stats. 2006).

Title MPP
California Code of Regulations
AMEND: 42-721, 42-780, 44-303, 44-307, 44-318, 82-812
Filed 06/30/2008
Effective 07/01/2008
Agency Contact: Sandra Ortega (916) 657-3174

File# 2008-0620-02
DEPARTMENT OF SOCIAL SERVICES
Senate Bill 1569 (Ch. 672, Stats. of 2006) Implementation

This rulemaking extends eligibility for public social services including refugee cash assistance, MediCal and employment social services to "qualified noncitizen victims of trafficking, domestic violence, and other serious crimes" (SB 1569) who demonstrate eligibility.

Title MPP
California Code of Regulations
ADOPT: 40-037, 70-101, 70-102, 70-103, 70-104, 70-105 AMEND: 30-755, 30-770, 40-105, 42-430, 42-431, 42-433, 42-711, 49-020, 49-030, 49-060, 63-403, 69-201, 69-202, 69-205
Filed 06/26/2008
Effective 07/01/2008
Agency Contact: Sandra Ortega (916) 657-3174

File# 2008-0609-01
DIVISION OF THE STATE ARCHITECT
Voluntary Certified Access Specialist Program

Senate Bill 262 (Chapter 872, Statutes of 2003) authorizes the State Architect to establish and publicize a program for voluntary certification by the state of any person who meets specified criteria as a Certified Access Specialist. This legislation required the Division of

the State Architect to make available to the public an updated directory of current Certified Access Specialists before October 31st of each year. The Division of the State Architect (Division) proposes to adopt regulations establishing this program in Articles 1 through 5 in title 21, division 1, chapter 1, subchapter 2.5 of the California Code of Regulations.

Title 21

California Code of Regulations

ADOPT: 111, 112, 113, 114, 121, 131, 132, 133, 134, 135, 136, 141, 151, 152, 153

Filed 06/30/2008

Effective 07/30/2008

Agency Contact: Kelly Long (916) 445-4047

File# 2008-0515-01

**EMERGENCY MEDICAL SERVICES
AUTHORITY****Paramedic Regulations**

Currently an individual has one year to apply for licensure as a paramedic after receiving his or her National Registry of Emergency Medical Technicians EMT-Paramedic Examination results. This regulatory action increases this time period, for application purposes, to two years. This action also allows a student enrolled in a paramedic training program to now be eligible to take the skills or practical portion of the national exam upon successful completion of the didactic and skills laboratory portion of the paramedic training program. Additionally, these regulations and the EMSA disciplinary guidelines, incorporated by reference, address the imposition of an administrative fine and establish the administrative fine structure pursuant to Health and Safety Code section 1798.210.

Title 22

California Code of Regulations

AMEND: 100140, 100141, 100163, 100172, 100174

Filed 06/26/2008

Effective 07/26/2008

Agency Contact: Nancy J. Steiner (916) 322-4336

File# 2008-0603-07

**FISH AND GAME COMMISSION
Sea Urchin Fishing**

These amendments expand the number of days available for Sea Urchin fishing and make additional changes to the regulations to be consistent with changes made to Fish and Game Code Section 7852.2, including the appeal process for denial of a permit and the process and fees for late permit renewal applications.

Title 14

California Code of Regulations

AMEND: 120.7

Filed 06/30/2008

Effective 06/30/2008

Agency Contact: Jon F. Fischer (916) 653-6184

File# 2008-0522-05

FISH AND GAME COMMISSION**Central Valley Salmon Sport Fishing**

This regulatory action imposes bag limit reductions for the Central Valley salmon fisheries in response to federal action in the ocean and projected low Central Valley Chinook salmon abundance. Based on historical returns, it allows for very limited access to late-fall Chinook in some areas.

Title 14

California Code of Regulations

AMEND: 7.50

Filed 07/02/2008

Effective 07/02/2008

Agency Contact: Sherrie Koell (916) 654-9866

File# 2008-0522-06

FISH AND GAME COMMISSION**Ocean Salmon Sport Fishing**

This action determines the 2008 ocean salmon sport fishing season in state waters from shore to 3 miles out, continuing the closure for the remainder of the season to conform with the Salmon Fishery Management Plan for waters from 3 to 200 miles offshore established by the National Marine Fisheries Service upon the advice of the Pacific Fishery Management Council.

Title 14

California Code of Regulations

AMEND: 27.80

Filed 07/01/2008

Effective 07/31/2008

Agency Contact: Sherrie Koell (916) 654-9866

File# 2008-0516-05

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD****Table Saws**

This regulatory action adopts a definition and specifications for Table Saws. It also adopts definitions for ripping and crosscutting and clarifies when push sticks and push blocks are to be provided in the workplace (and deletes a provision requiring their use).

Title 8

California Code of Regulations

ADOPT: 4300.1 AMEND: 4297, 4300

Filed 06/30/2008

Effective 07/30/2008

Agency Contact: Marley Hart (916) 274-5721

File# 2008-0520-02

STATE WATER RESOURCES CONTROL BOARD
Policy for Compliance Schedules in NPDES Permits

This rulemaking adopts the Policy for Compliance Schedules in National Pollutant Discharge Elimination System Permits. It authorizes regional water boards to include a compliance schedule in a permit for an existing discharger to implement a new, revised, or newly interpreted water quality objective that results in a permit limitation more stringent than the limitation previously imposed if the discharger meets specified requirements and has demonstrated the need for more time to take actions necessary to complying, such as constructing new facilities, expanding programs, and/or securing financing. The policy grandfathers in existing permits with compliance schedules in the regions that have allowances for these in their basin plans but requires compliance by the nine regional water boards with the terms of the new policy for any new permits needing compliance schedules. The policy does not apply to compliance schedules that are part of regional TMDL implementation plans or to the state board's policy on Toxics Standards.

Title 23

California Code of Regulations

ADOPT: 2918

Filed 06/26/2008

Effective 06/26/2008

Agency Contact: Joanna Jensen (916) 657-1036

File# 2008-0519-02

STATE WATER RESOURCES CONTROL BOARD
Basin Plan Amendment: TMDL for Trash in the Los Angeles River Watershed

This amendment of section 3935 reflects the Los Angeles Regional Water Quality Board's adoption of basin plan amendments for trash in the Los Angeles River Watershed (Resolution No. 2007-012); approved by the State Water Resources Control Board (Resolution No. 2008-0024). This action was precipitated by the setting aside of the Los Angeles Regional Board Resolution 01-013 by the Regional Board pursuant to an appellate decision in City of Arcadia v. State Water Resources Control Board (2006) 135 Cal.App.4th 1392, for failure to perform an EIR level of analysis through an EIR or its functional equivalent as required under the California Environmental Quality Act (CEQA).

Title 23

California Code of Regulations

AMEND: 3935

Filed 07/01/2008

Effective 07/01/2008

Agency Contact: Nick Martorano (916) 341-5980

File# 2008-0528-01

STATE WATER RESOURCES CONTROL BOARD
BPA Modifying Beneficial Uses and Establishing WQOs for Mercury

In this rulemaking, the State Water Resources Control Board approves the basin plan amendment adopted by the Central Valley Regional Water Quality Control Board which recognizes that two beneficial uses (municipal and domestic water supply and human consumption of aquatic organisms) do not apply to a two-mile portion of Sulphur Creek in Colusa County. The rulemaking also establishes site-specific water quality objectives for mercury for that portion of Sulphur Creek.

Title 23

California Code of Regulations

ADOPT: 3949.5

Filed 06/27/2008

Effective 06/27/2008

Agency Contact: Mitchell Goode (916) 341-5726

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN JANUARY 30, 2008 TO
JULY 2, 2008**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 1

04/24/08 AMEND: Appendix A

02/25/08 ADOPT: 48, 50, 52 AMEND: 55

Title 2

06/26/08 AMEND: 554.2, 554.3

06/17/08 ADOPT: div. 8, ch. 112, sec. 59570

06/11/08 AMEND: 18360, 18361

06/11/08 ADOPT: 18421.7 AMEND: 18401

06/11/08 ADOPT: 18944.2 REPEAL: 18944.2

05/21/08 ADOPT: 59580

05/14/08 ADOPT: 18413

05/13/08 ADOPT: 59620

05/06/08 AMEND: 43000, 43001, 43002, 43003, 43004, 43005, 43006, 43007, 43008, 43009

04/30/08 AMEND: 1859.2, 1859.61, 1859.81, 1859.82, 1859.83, 1859.202, 1866, Form SAB 50-04 (Rev. 01/08)

04/29/08 ADOPT: 1859.190, 1859.191, 1859.192, 1859.193, 1859.193.1, 1859.194,

1859.195, 1859.196, 1859.197,
1859.198, 1859.199 AMEND: 1859.2,
1859.51, 1859.81, Form SAB 50-04
(Revised 01/08), Form SAB 50-05
(Revised 01/08), Form SAB 50-10
(Revised 01/08)
04/24/08 ADOPT: 1183.081, 1183.131, 1183.30,
1183.31, 1183.32 AMEND: 1181.1,
1181.2, 1181.3, 1183, 1183.01, 1183.04,
1183.08, 1183.11, 1183.13, 1183.14,
1183.3, 1188.3
04/10/08 AMEND: 1866, 1866.4.3, 1866.13, Form
SAB 40-22 (Rev. 10/07)
04/09/08 AMEND: 18997
03/28/08 ADOPT: 59630
03/24/08 AMEND: 18735
03/19/08 AMEND: 55300
03/19/08 AMEND: 549.90
03/19/08 AMEND: 18200
03/03/08 AMEND: 1859.76, 1859.83, 1859.104.3
02/25/08 AMEND: 549.80
02/25/08 AMEND: 714

Title 3

06/30/08 AMEND: 3589(a)
06/24/08 AMEND: 3963
06/24/08 AMEND: 3060.3
06/23/08 AMEND: 3591.5(a)
06/17/08 AMEND: 2751
06/16/08 AMEND: 3434(b)
06/11/08 AMEND: 3434(b)
06/09/08 AMEND: 3700
06/04/08 AMEND: 3434(b)
05/23/08 AMEND: 3434(b)
05/23/08 AMEND: 1438.7, 1438.17
05/07/08 AMEND: 3434(b)
05/05/08 AMEND: 3406(b)
05/02/08 AMEND: 3417(b)
05/02/08 AMEND: 3434
04/30/08 AMEND: 3591.20
04/23/08 AMEND: 6550
04/21/08 AMEND: 3700
04/18/08 AMEND: 3434(b)
04/16/08 AMEND: 3434(b) & (c)
04/15/08 AMEND: 3433(b)
04/08/08 AMEND: 3434(b)
04/02/08 AMEND: 3433(b)
04/02/08 AMEND: 3433(b)
04/01/08 ADOPT: 821, 821.1, 821.2, 821.3, 821.4,
821.5 REPEAL: 784, 784.1, 784.2, 800,
800.1, 801, 802
03/26/08 AMEND: 3434(b)
03/21/08 AMEND: 3434(b)
03/19/08 AMEND: 6620
03/17/08 AMEND: 3434(b)

03/17/08 AMEND: 3406(b)
03/17/08 AMEND: 3700(c)
03/13/08 AMEND: 6860
03/12/08 AMEND: 3434(b)
03/12/08 AMEND: 3406(b)
03/05/08 AMEND: 3875
03/04/08 AMEND: 3867
03/03/08 AMEND: 3591.20
02/22/08 AMEND: 3434(b)
02/21/08 AMEND: 6393
02/11/08 AMEND: 3434(b)
02/08/08 AMEND: 3591.20
02/04/08 AMEND: 3434(b)

Title 4

06/24/08 ADOPT: 12335, 12340, 12357 AMEND:
12342, 12343, 12344, 12345, 12358,
12359
05/23/08 ADOPT: 1843.3 AMEND: 1843.2
05/01/08 AMEND: 1844
04/08/08 AMEND: 1467
03/24/08 AMEND: 10177, 10178, 10181, 10182,
10187, 10188, 10189
02/29/08 ADOPT: 8102, 8102.1, 8102.2, 8102.3,
8102.4, 8102.5, 8102.6, 8102.7, 8102.8,
8102.9, 8102.10, 8102.11, 8102.12,
8102.13, 8102.14, 8102.15 AMEND:
8090, 8091, 8092, 8093, 8094, 8095,
8096, 8097, 8098, 8099, 8100, 8101

Title 5

06/24/08 AMEND: 80021
06/19/08 AMEND: 4600(I)
06/13/08 ADOPT: 55185, 57017 AMEND: 55180,
57001.7, 58003.4, 58770, 58771, 58774
06/10/08 AMEND: 30910, 30911, 30912, 30913,
30914, 30916
06/10/08 AMEND: 30920, 30921, 30922, 30923,
30924, 30925, 30927
06/09/08 ADOPT: 19828.3, 19837.2 AMEND:
19816, 19816.1, 19828.2, 19837.1,
19846
05/28/08 ADOPT: 18085.5, 18086.1 AMEND:
18086, 18087, 18088, 18091, 18101,
18102, 18104
05/21/08 ADOPT: 6105 AMEND: 6100, 6104
05/13/08 AMEND: 15440, 15441, 15442, 15443,
15444, 15445, 15446, 15447, 15448,
15449, 15450, 15451, 15452, 15453,
15454, 15455, 15456, 15457, 15458,
15459, 15460, 15461, 15462, 15463,
15464, 15467, 15468, 15469, 15471,
15471.1, 15471.2, 15472, 15473, 15474,
15475, 15476, 15477, 15478, 15479,
15479.5, 15480, 15481, 15483, 15484,

	15485, 15486, 15487, 15488, 15489, 15490, 15493				Article 5, Section 2350.2; Sections 2375.1, 2375.18, Table 2375.18, Sections 2375.19, 2390.1, 2390.24, 2390.41, 2390.81, 2395.3, 2395.5, 2395.6, 2395.23, 2395.25, 2395.32, 2395.42, 2395.44, 2395.45, 2395.57, 2395.58, 2405.1, 2405.2; Article 16, Sections 2420.3; Article 45; Sections 2480.6, 2480.7, 2484.24, 2500.7, 2500.8, 2500.9, 2500.10, 2500.11, 2500.23, 2505.10, 2505.11, 2510.4, 2510.5, 2510.6, 2510.7, 2510.56, 2510.58, 2522.2, 2530.4, 2530.102, 2530.103, 2530.104, 2530.107, 2530.112, 2533.1, 2534.6, 2534.8, 2540.1, 2540.2, 2540.3, 2540.4, 2560.2, 2561.1, 2561.3, 2561.31, 2561.32, 2563.23, 2563.33; Article 77, Section 2565.3; Sections 2568.8, 2568.15, 2569.1, 2569.6, 2569.7, 2569.20, 2569.51; Article 80, Sections 2571.1 and 2571.16. REPEAL: 2340.23, 2350.11, 2390.83, 2395.7, 2395.33, 2395.43, 2395.50, 2480.8, 2522.8 and 2561.50.
05/05/08	ADOPT: 11315.5 and 11315.6 AMEND: 11315				
05/01/08	AMEND: 80440, 80443				
04/21/08	ADOPT: 18134				
04/21/08	ADOPT: 18134				
03/03/08	ADOPT: 9510.5, 9512, 9513, 9514, 9525 AMEND: 9510, 9511, 9515, 9516, 9517, 9518, 9519, 9521, 9522, 9523, 9524, 9527, 9528, 9529, 9530 REPEAL: 9517.1, 9520				
02/28/08	ADOPT: 11969.10, 11969.11 AMEND: 11969.1, 11969.2, 11969.3, 11969.4, 11969.6, 11969.7, 11969.8, 11969.9				
02/25/08	AMEND: 41301				
02/22/08	AMEND: 3051.16, 3065				
Title 7					
06/10/08	ADOPT: 236.1				
Title 8					
06/30/08	ADOPT: 4300.1 AMEND: 4297, 4300				
06/06/08	AMEND: 1710(k)(2)				
05/19/08	AMEND: 1529, 5208, 8358				
05/19/08	AMEND: 1710				
05/19/08	AMEND: 797, 1604.10, 1601.21, 1662				
05/05/08	ADOPT: 2340.2, 2340.5, 2340.8, 2340.10, 2340.12, 2340.14; Article 6, Sections 2360.1 through 2360.5; Sections 2375.7, 2375.25, 2380.1, 2390.10, 2390.20, Article 12, Sections 2400.1, 2400.2; Sections 2418.2, 2418.3, 2418.4, 2418.5, 2418.6, 2420.4, 2420.5, 2420.6, 2420.7, 2473.1, 2473.2, 2480.5, 2480.9, 2484.5, 2484.6; Article 48.1, Sections 2485.1, 2485.2; Sections 2505.2, 2510.8, 2522.20, 2530.120, 2530.121; Article 58.1, Section 2535.1; Sections 2540.11, 2540.11 Figure S-1, 2560.3; Article 74.1, Sections 2562.1 through 2562.7; Article 77.1, Sections 2566.1 through 2566.3; Article 77.2, Sections 2567.1 through 2567.3; Sections 2569.5, 2571.9, 2571.30; Article 83, Sections 2583.1 through 2583.8; Article 84, Sections 2584.1 through 2584.8; Article 85, Sections 2585.1 through 2585.3; Article 86, Sections 2586.1 through 2586.4; Article 87, Sections 2587.1 through 2587.5; Article 88, Sections 2588.1 through 2588.3; Article 89, Sections 2589.1 and 2589.2. AMEND: 2300, 2305.2, 2305.4, 2340.9, 2340.11, 2340.13, 2340.16, Table 2340.16, 2340.17, 2340.18, 2340.21, 2340.22;				
		04/11/08	AMEND: 7016(c)		
		04/07/08	AMEND: 10116, 10116.1, 10117.1, 10118.1, 10119, 10120, 10121, 10136, 10137, 10225, 10225.1, 10225.2		
		04/01/08	ADOPT: 3140, 3141, 3141.1, 3141.2, 3141.3, 3141.4, 3141.5, 3141.6, 3141.7, 3141.8, 3141.9, 3141.10, 3141.11, 3141.12, 3141.13, 3142, 3142.1, 3142.2, 3143, 3144, 3145, 3146 AMEND: 3000, 3001, 3009, 3094.2, 3120.6, 3137		
		03/05/08	AMEND: 1504, 1597		
		03/05/08	AMEND: 3228		
		02/29/08	AMEND: 3270		
Title 9					
		07/02/08	AMEND: 9515(d), 10522(b)		
		03/06/08	AMEND: 10025, 10057, 10515, 10518, 10524, 10545, 10550, 10606, 11014, 11017, 11024, 13070		
		02/28/08	ADOPT: 7024.9, 7025.4, 7136.4, 7136.5, 7136.6, 7136.7, 7136.8, 7136.9, 7137, 7138, 7179.4, 7179.5 REPEAL: 7136.5		
		02/13/08	ADOPT: 3100, 3200.010, 3200.020, 3200.030, 3200.040, 3200.050, 3200.060, 3200.070, 3200.080, 3200.090, 3200.100, 3200.110, 3200.120, 3200.130, 3200.140, 3200.150, 3200.160, 3200.170, 3200.180, 3200.190, 3200.210, 3200.220, 3200.225, 3200.230, 3200.240, 3200.250, 3200.260,		

	3200.270, 3200.280, 3200.300, 3200.310, 3300, 3310, 3315, 3320, 3350, 3360, 3400, 3410, 3500, 3505, 3510, 3520, 3530, 3530.10, 3530.20, 3530.30, 3530.40, 3540, 3610, 3615, 3620, 3620.05, 3620.10, 3630, 3640, 3650 REPEAL: 3100, 3200.000, 3200.010, 3200.020, 3200.030, 3200.040, 3200.050, 3200.060, 3200.070, 3200.080, 3200.090, 3200.100, 3200.110, 3200.120, 3200.130, 3200.140, 3200.150, 3200.160, 3310, 3400, 3405, 3410, 3415	06/10/08 AMEND: 2222 06/02/08 AMEND: 1141 05/16/08 ADOPT: 2449, 2449.1, 2449.2, 2449.3 05/01/08 AMEND: 1 04/28/08 AMEND: 120.00, 120.01, 120.02, 124.93, 124.95 REPEAL: 120.04 04/10/08 AMEND: 1202.1, 1202.2, 1232 04/07/08 AMEND: 2451, 2452, 2453, 2458, 2461 03/07/08 AMEND: 345.02, 345.06, 345.21, 345.22 03/04/08 AMEND: 2485 02/08/08 AMEND: 621, 691, 693, 699 02/01/08 ADOPT: 1300, 1400, 1401, 1402, 1403, 1404, 1405 REPEAL: 1300, 1301, 1302, 1303, 1304, 1304.1, 1305, 1310, 1311, 1312, 1313, 1314, 1315, 1320, 1321, 1322, 1323, 1324, 1325, 1330, 1331, 1332, 1333, 1334, 1335, 1336, 1337, 1338, 1339, 1339.1, 1339.2, 1339.3, 1339.4, 1339.5, 1339.6, 1340, 1341, 1342, 1343, 1344, 1350, 1351, 1352, 1353, 1354, 1355, 1356, 1360, 1361, 1362, 1363, 1364, 1365, 1366, 1370, 1371, 1372, 1373, 1374, 1375, 1400, 1401, 1402, 1403, 1404, 1405, 1406, 1410, 1411, 1412, 1413, 1414, 1415, 1416, 1417, 1418, 1420, 1421, 1422, 1423, 1424, 1425 and Article 15 text.
Title 10		
06/24/08	ADOPT: 2232.45.1, 2232.45.2, 2232.45.3, 2232.45.4, 2232.45.5 AMEND: 2536.2	
06/16/08	AMEND: 2318.6, 2353.1	
06/02/08	ADOPT: 10.190202	
05/27/08	AMEND: 2249.2–2249.9, 2249.12, 2249.15	
05/16/08	ADOPT: 2642.8, 2644.28 AMEND: 2642.6, 2642.7, 2644.2, 2644.3, 2644.6, 2644.7, 2644.8, 2644.12, 2644.16, 2644.17, 2644.19, 2644.20, 2644.21, 2644.23, 2644.25, 2644.27	
04/30/08	AMEND: 2697.6, 2697.61	
04/29/08	ADOPT: 10.19900, 10.19901	
04/28/08	AMEND: 310.111	
03/27/08	AMEND: 2699.6500, 2699.6805, 2699.6803	
03/20/08	AMEND: 1950.314.8	
03/18/08	AMEND: 2498.6	
03/12/08	ADOPT: 2699.402 AMEND: 2699.100, 2699.205, 2699.6600, 2699.6607, 2699.6608, 2699.6613, 2699.6625, 2699.6629, 2699.6813	
03/06/08	AMEND: 260.241, 260.241.2 REPEAL: 260.218.5, 260.241.1	
02/22/08	ADOPT: 2695.20, 2695.21, 2695.22, 2695.23, 2695.24, 2695.25, 2695.26, 2695.27, 2695.28	
02/14/08	ADOPT: 2790.8, 2790.9	
02/11/08	AMEND: 5101	
Title 11		
06/17/08	AMEND: 1005, 1007, 1008, 1080	
05/28/08	AMEND: 2000, 2001, 2010, 2020, 2030, 2037, 2038, 2050, 2051, 2052, 2053, 2060, 2070, 2071, 2072, 2140	
04/14/08	AMEND: 1081	
02/29/08	AMEND: 1009, 1070, 1071, 1082, 1083	
Title 13		
06/16/08	ADOPT: 156.01	
06/16/08	AMEND: 1961, 1965	
Title 13, 17		
07/02/08	AMEND: 2299.1, 93118	
Title 14		
07/02/08	AMEND: 7.50	
07/01/08	AMEND: 27.80	
06/30/08	AMEND: 120.7	
06/23/08	AMEND: 18660.23, 18660.24, 18660.25, 18660.33, 18660.34	
06/20/08	AMEND: 360, 361, 362, 363, 364, 551, 708, 712	
06/18/08	ADOPT: 355	
06/16/08	AMEND: 10602, 10800	
05/15/08	AMEND: 353, 475	
05/09/08	AMEND: 27.20, 27.25, 27.30, 28.26, 28.27, 28.28, 28.29, 28.48, 28.49, 28.51, 28.52, 28.53, 28.54, 28.55, 28.56, 28.57, 28.58	
05/02/08	AMEND: 825.05	
04/28/08	ADOPT: 17987, 17987.1, 17987.2, 17987.3, 17987.4, 17987.5	
04/28/08	AMEND: 815.05	
04/25/08	AMEND: 17210.2, 17210.4, 17855.2, 17862, 17867	
04/07/08	AMEND: 228(b)(1)	
04/04/08	AMEND: 27.80	
03/26/08	AMEND: 630	

03/14/08 ADOPT: 13255.1 AMEND: 13055,
13111, 13169, 13255.0, 13255.1,
13255.2, 13576
03/14/08 ADOPT: 5.79, 5.88, 29.16, 29.91
AMEND: 1.74, 5.80, 5.81, 5.87, 27.90,
27.91, 27.92, 29.15, 29.90, 701
03/13/08 AMEND: 671
03/10/08 ADOPT: 18218, 18218.1, 18218.2,
18218.3, 18218.4, 18218.5, 18218.6,
18218.7, 18218.8, 18218.9
02/28/08 AMEND: 17211.1, 17211.4, 17211.7,
17211.9
02/28/08 ADOPT: 749.3
02/19/08 AMEND: 7.50
02/13/08 ADOPT: 704
02/11/08 ADOPT: 787.0, 787.1, 787.2, 787.3,
787.4, 787.5, 787.6, 787.7, 787.8, 787.9

Title 15

06/23/08 ADOPT: 2275
06/04/08 AMEND: 3190, 3191
05/23/08 ADOPT: 1417 AMEND: 1029, 1206,
1248, 1357, 1358, 1461
04/18/08 AMEND: 3291, 3293
04/07/08 AMEND: 3173.2
03/27/08 ADOPT: 2536.1
03/18/08 ADOPT: 3269 AMEND: 3315
03/18/08 ADOPT: 3486 AMEND: 3482, 3484,
3485
03/06/08 ADOPT: 3355.2 AMEND: 3030, 3050,
3268.2, 3355, 3355.1
02/25/08 ADOPT: 3075.4 AMEND: 3000
02/04/08 ADOPT: 1700, 1706, 1712, 1714, 1730,
1731, 1740, 1747, 1747.5, 1748, 1749,
1750, 1751, 1752, 1753, 1754, 1756,
1757, 1760, 1766, 1767, 1768, 1770,
1772, 1776, 1778, 1788, 1790, 1792

Title 16

07/02/08 AMEND: 390, 390.1, 390.3, 390.4,
390.5, and 390.6 REPEAL: 390.2
06/30/08 ADOPT: 119.7
06/26/08 AMEND: 109, 116
06/17/08 ADOPT: 4580
06/16/08 ADOPT: 4400, 4402, 4404, 4406, 4420,
4422, 4424, 4426, 4428, 4500, 4520,
4522, 4540, 4542, 4560, 4562
06/11/08 REPEAL: 1399.664
06/04/08 AMEND: 931
05/21/08 AMEND: 4141
05/20/08 AMEND: 905
05/19/08 ADOPT: 4440, 4442, 4443, 4444, 4446,
4448, 4450, 4452, 4470, 4472, 4474,
4476, 4478, 4480, 4482, 4484
05/16/08 AMEND: 1399.696, 1399.697
05/12/08 AMEND: 1399.523

05/08/08 REPEAL: 3300
05/07/08 ADOPT: 1364.32 AMEND: 1364.30
05/02/08 AMEND: 1079.2
04/29/08 AMEND: 1970, 1970.4(a), 1973(b)
04/24/08 AMEND: 1387.3
04/24/08 AMEND: 3000
04/17/08 AMEND: 1399.660
04/16/08 ADOPT: 973, 973.1, 973.2, 973.3, 973.4,
973.5, 973.6
04/14/08 AMEND: 1380.1
04/10/08 AMEND: 4123
04/01/08 AMEND: 1381.5, 1388, 1388.6, 1392
03/26/08 AMEND: 3065
03/24/08 AMEND: 974
03/18/08 AMEND: 1399.651
03/12/08 AMEND: 1435.2
02/19/08 AMEND: 1887.2, 1887.3
02/15/08 AMEND: 30, 95, 95.2, 95.6
02/04/08 AMEND: 2751
02/01/08 ADOPT: 1028.2, 1028.3, 1028.4, 1028.5
AMEND: 1021

Title 17

07/02/08 AMEND: 2299.1, 93118
06/12/08 ADOPT: 94016, 94168 AMEND: 94010,
94011
05/30/08 AMEND: 100080, 100085, 100090,
100100
04/30/08 ADOPT: 35004, 35005.1, 35031, 35088,
36050 AMEND: 35001, 35002, 35003,
35005, 35006, 35007, 35008, 35009,
35010, 35012, 35013, 35014, 35015,
35016, 35018, 35019, 35020, 35021,
35022, 35025, 35026, 35027, 35028,
35029, 35030, 35032, 35033, 35034,
35035, 35036, 35037, 35038, 35039,
35040, 35041, 35042, 35043, 35044,
35045, 35046, 35047, 35048, 35049,
35050, 35051, 35052, 35053, 35054,
35055, 35056, 35057, 35061, 35065,
35066, 35067, 35070, 35072, 35076,
35078, 35080, 35081, 35082, 35083,
35085, 35087, 35089, 35091, 35093,
35095, 35096, 35097, 35099, 36000,
36100 REPEAL: 35023
04/21/08 AMEND: 54355
04/21/08 AMEND: 93115.4, 93115.6, 93115.10
04/18/08 ADOPT: 93120, 93120.1, 93120.2,
93120.3, 93120.4, 93120.5, 93120.6,
93120.7, 93120.8, 93120.9, 93120.10,
93120.11, 93120.12
04/11/08 ADOPT: 30333.05, 30333.07, 30333.3,
30335.1, 30335.2, 30335.3, 30335.4,
30335.5, 30335.6, 30335.10, 30336.1,
30336.5, 30336.6, 30336.7, 30336.8,

	30338 AMEND: 30195.3, 30295, 30330, 30331, 30332, 30332.1, 30332.2, 30332.3, 30332.4, 30332.5, 30332.6, 30332.7, 30332.8, 30333, 30333.1, 30333.2, 30334, 30336, 30337 REPEAL: 30335	04/15/08	ADOPT: 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, Appendix A
04/03/08	AMEND: 6508	Title 21	
04/02/08	AMEND: 93119	06/30/08	ADOPT: 111, 112, 113, 114, 121, 131, 132, 133, 134, 135, 136, 141, 151, 152, 153
04/02/08	AMEND: 93119	02/15/08	AMEND: 1575
03/17/08	ADOPT: 100700	Title 22	
03/10/08	ADOPT: 30704, 30712, 30713 AMEND: 30700, 30701, 30702, 30703, 30710, 30711, 30714, 30720, 30721, 30722, 30723, 30730, 30735, 30736, 30740, 30741, 30750, 30751, 30752, 30753 REPEAL: 30715, 30724, 30734.1	06/26/08	AMEND: 100140, 100141, 100163, 100172, 100174
03/04/08	ADOPT: 100400, 100401, 100402, 100403, 100404, 100405, 100406, 100407, 100408, 100409, 100410	06/23/08	AMEND: 12805
02/19/08	AMEND: 70100.1, 70200	06/17/08	ADOPT: 25000, 25102, 25103, 25104, 25201, 25203, 25204, 25301, 25302, 25303, 25304, 25305, 25306, 25401, 25403, 25405, 25501, 25502, 25503, 25504, 25505, 25601, 25701, 25703, 25705, 25707, 25709, 25711, 25713, 25721, 25801, 25803, 25805, 25821, 25900, 25901, 25902, 25903, 27000, 28001, 28002, 28003, 28004, 28006, 28007, 28008, 28009, 28010, 28011, 28012, 28013, 28014, 28015, 28016, 28017, 28018, 28019, 28020, 28021, 28022, 28023, 28024, 28025, 28026, 28027, 28028, 28029, 28030, 28031, 28032, 28033, 28034, 28035, 25036, 28037, 28038, 28039, 28040 REPEAL: 12000, 12102, 12103, 12104, 12201, 12203, 12204, 12301, 12302, 12303, 12304, 12305, 12306, 12401, 12403, 12405, 12501, 12502, 12503, 12504, 12505, 12601, 12701, 12703, 12705, 12707, 12709, 12711, 12713, 12721, 12801, 12803, 12805, 12821, 12900, 12901, 12902, 12903, 14000, 15001, 15002, 15003, 15004, 15006, 15007, 15008, 15009, 15010, 15011, 15012, 15013, 15014, 15015, 15016, 15017, 15018, 15019, 15020, 15021, 15022, 15023, 15024, 15025, 15026, 15027, 15028, 15029, 15030, 15031, 15032, 15033, 15034, 15035, 15036, 15037, 15038, 15039, 15040
02/14/08	ADOPT: 30410, 30410.2 AMEND: 30421, 30424, 30445, 30447	05/08/08	ADOPT: 66260.201 AMEND: 66260.10, 66261.9, 66273.1, 66273.3, 66273.6, 66273.8, 66273.9, 66273.12, 66273.13, 66273.14, 66273.20, 66273.32, 66273.33, 66273.34, 66273.40, 66273.51, 66273.53, 66273.56, 66273.82, 66273.83, 66273.90, Appendix X to Chapter 11
02/13/08	AMEND: 2500, 2502		
02/06/08	ADOPT: 2641.56, 2641.57 AMEND: 2641.5, 2641.30, 2641.35, 2641.45, 2641.55, 2643.5, 2643.10, 2643.15 REPEAL: 2641.75, 2641.77		
02/06/08	ADOPT: 2641.56, 2641.57 AMEND: 2641.5, 2641.30, 2641.35, 2641.45, 2641.55, 2643.5, 2643.10, 2643.15 REPEAL: 2641.75, 2641.77		
Title 18			
06/23/08	AMEND: 19503		
06/10/08	ADOPT: 2558, 2559, 2559.1, 2559.3, 2559.5		
06/04/08	AMEND: 23038(b)–2, 23038(b)–3		
04/29/08	AMEND: 25137(c)(1)(D)		
04/23/08	AMEND: 1620		
04/10/08	AMEND: 1570		
Title 19			
06/06/08	AMEND: 200, 203, 204, 206, 207, 208, 209, 211, 212, 214, 215, 216, 217		
04/23/08	ADOPT: 2660 AMEND: 2720, 2723, 2724, 2725, 2726, 2728		
02/20/08	AMEND: Division 2, Chapter 4, Article 4, Section 2729.2 and Appendices A I, II, III and Appendices B I, II, III		
02/05/08	REPEAL: 3.33		
02/04/08	AMEND: 208, 209		
Title 20			
05/20/08	AMEND: 2323(a), 2323(b), 2323(c), 2323(d), 2323(e), 2323(f), 2325(a), 2329(c), 2329(e), 2330(a), 2332(d), 2333(a), 2335(b)		

05/06/08 ADOPT: 72038, 72077.1, 72329.1
 AMEND: 72077, 72329
 04/18/08 AMEND: 4410 REPEAL: 4410.5
 04/15/08 AMEND: 50960.2, 50960.4, 50960.6,
 50960.9, 50960.12, 50960.15, 50960.21,
 50960.23, 50960.26, 50960.29,
 50960.32, 50960.34, 50960.36, 50962,
 50963, 50964, 50965, 50966
 03/27/08 AMEND: 12705(b)
 03/18/08 AMEND: 12000
 03/03/08 AMEND: 926-3, 926-4, 926-5
 02/28/08 AMEND: 51000.3, 51000.30, 51000.50
 02/08/08 ADOPT: 64551.10, 64551.20, 64551.30,
 64551.35, 64551.40, 64551.60,
 64551.70, 64551.100, 64552, 64554,
 64556, 64558, 64560, 64560.5, 64561,
 64570, 64572, 64573, 64575, 64576,
 64577, 64578, 64580, 64582, 64583,
 64585, 64591, 64600, 64602, 64604
 AMEND: 64590, 64593, 64654, 64658
 REPEAL: 64417, 64555, 64560, 64562,
 64563, 64564, 64566, 64568, 64570,
 64600, 64602, 64604, 64612, 64622,
 64624, 64626, 64628, 64630, 64632,
 64634, 64636, 64638, 64640, 64642,
 64644
 02/06/08 AMEND: 2708(c)-1
 02/06/08 AMEND: 2708(c)-1

Title 22, MPP

06/30/08 AMEND: 63-300, 63-504, 63-505,
 63-601
 03/05/08 AMEND: 87101, 87102, 87106, 87107,
 87110, 87111, 87112, 87113, 87114,
 87115, 87116, 87117, 87118, 87218,
 87219, 87219.1, 87220, 87222, 87223,
 87224, 87225, 87226, 87227, 87227.1,
 87228, 87229, 87230, 87231, 87235,
 87236, 87340, 87342, 87342.1, 87343,
 87344, 87345, 87346, 87451, 87452,
 87453, 87454, 87455, 87455.1, 87457,
 87458, 87560, 87561, 87562, 87564,
 87564.2, 87564.3, 87564.4, 87564.5,
 87565, 87566, 87567, 87568, 87569,
 87570, 87571, 87572, 87573, 87574,
 87575, 87575.1, 87575.2, 87576, 87577,
 87578, 87579, 87580, 87581, 87582,
 87583, 87583.1, 87584, 87585, 87586,
 87587, 87588, 87589, 87590, 87591,
 87592, 87593, 87686, 87689, 87690,
 87691, 87692, 87700, 87701, 87701.1,
 87701.2, 87701.3, 87701.5, 87702,
 87702.1, 87703, 87704, 87705, 87706,
 87707, 87708, 87709, 87710, 87711,
 87713, 87716, 87716.1, 87720, 87721,

87722, 87724, 87725, 87725.1, 87730,
 87730.1, 87730.2, 87731, 87731.1,
 87731.2, 87731.3, 87731.4, 87755,
 87756, 87757, 87758, 87759, 87761,
 87763, 87766, 87768, 87769, 87775,
 87777, 87785, 87786, 87787, 87788,
 87789, 87791, 87792, 87793 REPEAL:
 87725.2

Title 23

07/01/08 AMEND: 3935
 06/27/08 ADOPT: 3949.5
 06/26/08 ADOPT: 2918
 05/13/08 ADOPT: 3919.3
 05/12/08 AMEND: 3947
 05/12/08 AMEND: 3939.22
 03/10/08 ADOPT: 3919.2
 02/28/08 ADOPT: 3919.1
 02/11/08 ADOPT: 3939.27
 02/08/08 ADOPT: 3939.28
 02/08/08 ADOPT: 3939.30
 02/05/08 ADOPT: 3939.29

Title 25

04/02/08 ADOPT: 7201, 7205, 7205.1, 7205.2,
 7205.3, 7206, 7207, 7209, 7211, 7215,
 7225, 7231 AMEND: 7200, 7202, 7204,
 7206 (renumbered to 7209.5), 7208,
 7210, 7212, 7218 (renumbered to 7217),
 7220, 7222, 7224, 7226, 7228, 7230,
 7232, 7234, 7239 (renumbered to 7201)
 REPEAL: 7214, 7216
 04/01/08 AMEND: 6932

Title 27

06/17/08 ADOPT: 25000, 25102, 25103, 25104,
 25201, 25203, 25204, 25301, 25302,
 25303, 25304, 25305, 25306, 25401,
 25403, 25405, 25501, 25502, 25503,
 25504, 25505, 25601, 25701, 25703,
 25705, 25707, 25709, 25711, 25713,
 25721, 25801, 25803, 25805, 25821,
 25900, 25901, 25902, 25903, 27000,
 28001, 28002, 28003, 28004, 28006,
 28007, 28008, 28009, 28010, 28011,
 28012, 28013, 28014, 28015, 28016,
 28017, 28018, 28019, 28020, 28021,
 28022, 28023, 28024, 28025, 28026,
 28027, 28028, 28029, 28030, 28031,
 28032, 28033, 28034, 28035, 25036,
 28037, 28038, 28039, 28040 REPEAL:
 12000, 12102, 12103, 12104, 12201,
 12203, 12204, 12301, 12302, 12303,
 12304, 12305, 12306, 12401, 12403,
 12405, 12501, 12502, 12503, 12504,
 12505, 12601, 12701, 12703, 12705,

	12707, 12709, 12711, 12713, 12721, 12801, 12803, 12805, 12821, 12900, 12901, 12902, 12903, 14000, 15001, 15002, 15003, 15004, 15006, 15007, 15008, 15009, 15010, 15011, 15012, 15013, 15014, 15015, 15016, 15017, 15018, 15019, 15020, 15021, 15022, 15023, 15024, 15025, 15026, 15027, 15028, 15029, 15030, 15031, 15032, 15033, 15034, 15035, 15036, 15037, 15038, 15039, 15040		02/25/08	ADOPT: 21815 AMEND: 21780, 21790, 21800, 21820, 21825, 21830, 21840, 21865, 22234, 22240, 22243, 22244, 22246, 22247, 22248, 22249, 22249.5, 22251, 22252, 22253, Division 2 — Appendix 3
		Title MPP		
			06/30/08	AMEND: 63–300, 63–504, 63–505, 63–601
			06/30/08	AMEND: 42–721, 42–780, 44–303, 44–307, 44–318, 82–812
03/21/08	AMEND: 15100, 15110, 15140, 15150, 15160, 15170, 15185, 15186, 15187, 15187.1, 15190, 15200, 15210, 15220, 15230, 15240, 15241, 15250, 15260, 15280, 15290, 15300, 15310, 15330, 15400.2, 15600		06/26/08	ADOPT: 40–037, 70–101, 70–102, 70–103, 70–104, 70–105 AMEND: 30–755, 30–770, 40–105, 42–430, 42–431, 42–433, 42–711, 49–020, 49–030, 49–060, 63–403, 69–201, 69–202, 69–205
			06/04/08	AMEND: 63–301